

**ZB# 05-54**

**Quick Chek Food Stores**

**12-1-49**

05-54

QUICK CHECK FOOD STORES  
UNION AVE & RT. 32 (12-1-49)

ZONING BOARD OF APPEALS  
TOWN OF NEW WINDSOR  
555 UNION AVENUE  
NEW WINDSOR, N.Y. 12553

Granted 9/26/05

Rec'd Planning Office 11/13/06



# **Town of New Windsor**

**555 Union Avenue  
New Windsor, New York 12553  
Telephone: (845) 563-4615  
Fax: (845) 563-4689**

## **OFFICE OF THE ZONING BOARD OF APPEALS**

January 17, 2006

Gibbons, DelDeo, Dolan Griffinger & Vecchione  
One Pennsylvania Plaza – 37th Floor  
New York, NY 10119-3701

ATTN: HOWARD GENESLAW

SUBJECT: REQUEST FOR VARIANCE #05-54

Dear Sir:

Please find enclosed two copies of the Formal Decision for your case before the Zoning Board of Appeals. Please keep these copies in your records for future reference if needed.

If you are in need of any further assistance or have any questions in this matter, please feel free to contact me at the above number.

Very truly yours,

---

Myra Mason, Secretary to the  
NEW WINDSOR ZONING BOARD

MLM:mlm

cc: Michael Babcock, Building Inspector

**NEW WINDSOR ZONING BOARD OF APPEALS**

SBL: 12-1-49

In the Matter of the Application of

**QUICK CHEK FOOD STORES**

**MEMORANDUM OF  
DECISION GRANTING**

**INTERPRETATION  
AND/OR VARIANCE**

**CASE #05-54**

**WHEREAS, Howard Geneslaw, Atty represented the , owner(s) of 12-1-49 on Windsor Highway, New Windsor, New York, 12553, has made application before the Zoning Board of Appeals for a/an :**

INTERPRETATION – of Code Section 300-26(A) relative to 1000 ft. spacing between “gasoline facilities/stations”. An area variance of Code Section 300-26(A), permitting use of this property as a facility to dispense gasoline, As per bulk tables, this application is for “Convenience store with gasoline sales” (use B-7)

FREE STANDING SIGN - Request for 27.9 sf for sign.

WALL SIGN – Request for 45 s.f. for wall sign.

All at corner of Rt. 32 & Union Avenue in an NC Zone (12-1-49)

**WHEREAS, a public hearing was held on September 26, 2005 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and**

**WHEREAS, the Applicant was represented by Howard D. Geneslaw, Esq. who appeared on behalf of this Application; and Frank Antonelli, Sr., Owner of the Property, Robert A. Vallario, of Quick Chek Food Stores; Jeff Martell, P.E., of Bohler Engineering, P.C.; and Ray Di Pasquale, P.E. of Atlantic Traffic & Design Engineers; and**

**WHEREAS, there were four spectators appearing at the public hearing; and**

**WHEREAS, two spectators spoke in favor of the application, one spoke in opposition to the Application and one had only asked questions and spoke neither in favor of nor in opposition to the application; and**

**WHEREAS, a decision was made by the Zoning Board of Appeals on the date of the public hearing granting the application; and**



**WHEREAS**, the Zoning Board of Appeals of the Town of New Windsor sets forth the following findings in this matter here memorialized in furtherance of its previously made decision in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and published in The Times Herald Record, also as required by law.
2. The Evidence presented by the Applicant showed that:
  - (a) The property is a commercial property located in a neighborhood of commercial properties on the corner of busy state and county highways.
  - (b) The applicant seeks an interpretation that the prohibition contained in Section 300-26(A) does not apply to this property.
  - (c) In the alternative, the applicant seeks a variance of Section 300-26(A) to allow the use of the property to dispense gasoline and convenience (grocery and related) items.
  - (d) The ZBA performed an "Uncoordinated Review" pursuant to 6 NYCRR, Section 617.6(b)(4).
  - (e) The property was previously engaged in the sale of fuel, and has been engaged in automobile repairs and the sale of convenience food items for many years.
  - (f) The property could be developed as-of-right for a number of high-intensity commercial uses, including a convenience store without fuel sales, a fast-food restaurant with drive-thru facility, a high-turnover sit-down restaurant, a bank with drive-thru facility, or some combination thereof.
  - (g) The applicant has located the driveway/access from the property to Rt. 32 to minimize any potential for traffic impacts.
  - (h) The proposed free-standing sign is of similar size and appearance to other signs in the neighborhood.
  - (i) The proposed free-standing sign is located and configured so that it will not impair or affect the safe operation of motor vehicles on the adjacent roadways.
  - (j) The proposed façade sign is consistent in size and nature to other signs in the neighborhood.

- (k) The proposed façade sign will be located approximately 200 feet from the roadways adjacent to the property.
- (l) The applicant needs the proposed façade sign to identify the business to motorists on the adjacent roadways.
- (m) The proposed sign will consist of channel letters and although a variance is necessary, the actual signage will be less than the variance requested.
- (n) The property now contains approximately four businesses, each of which is entitled by law to its own sign, and has maintained such signage. Since the property will now be occupied by a single business, the total signage will be less than or not more than the present signage on the property.
- (o) The Orange County Planning Department, by recommendation dated 9/8/05, recommended that the sign variances be denied.

**WHEREAS**, The Zoning Board of Appeals of the Town of New Windsor makes the following conclusions of law here memorialized in furtherance of its previously made decision in this matter:

1. The Zoning Board of Appeals declares a Negative Declaration in accordance with, and as further stated by the Negative Declaration attached hereto and made a part hereof.
2. The applicant's proposal is regulated by section 300-26(A) of the New Windsor Code, which section does apply and, therefore, the applicant's request for an interpretation is denied.
3. By unanimous vote, variances to permit gas sales on the property within 1,000 feet of another gasoline facility (Section 300-26(A)); and a 27.9 square feet of freestanding sign area in excess of that permitted by the New Windsor Zoning Code (300-45(A), for a total permitted sign area of 91.9 square feet; and a variance of Section 300-45.A(2)(a) to permit a façade sign having dimensions of 3.5 feet in height and 20 feet in width are granted by unanimous vote of five members being present.
4. The benefit to the applicant of the area of freestanding and façade sign variances outweigh any detrimental effect of the health, safety and welfare of the neighborhood or community.
5. The requested variance(s) will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.
6. There is no other feasible method available to the Applicant that can produce the benefits sought.

7. The variance(s) requested is/are substantial in relation to the Town regulations but, nevertheless, are warranted.
8. The requested variance(s) will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district.
9. The difficulty the Applicant faces in conforming to the bulk regulations is/are self-created but, nevertheless, should be allowed.
10. The requested variance(s) are/is appropriate and are/is the minimum variance(s) necessary and adequate to allow the Applicant relief from the requirements of the Zoning Local Law and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
11. The interests of justice will be served by allowing the granting of the requested area variance(s).

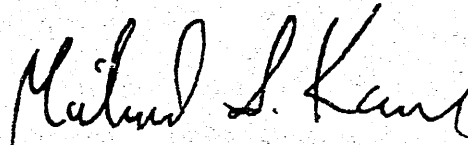
**NOW, THEREFORE, BE IT**

**RESOLVED**, that the Zoning Board of Appeals of the Town of New Windsor GRANT a request for a variance to permit gas sales on the property within 1,000 feet of another gasoline facility (Section 300-26(A); and a 27.9 square feet of freestanding sign area in excess of that permitted by the New Windsor Zoning Code (300-45(A), for a total permitted sign area of 91.9 square feet; and a variance of Section 300-45.A(2)(a) to permit a façade sign having dimensions of 3.5 feet in height and 20 feet in width as sought by the Applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.

**BE IT FURTHER**

**RESOLVED**, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and/or Building Inspector and Applicant.

Dated: September 26, 2005



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Chairman

**State Environmental Quality Review**

**NEGATIVE DECLARATION**

**Notice of Determination of Non-Significance**

**Town of New Windsor, New York**

**Project:** Quick Chek Food Store (Section 12, Block 1, Lot 49)

**Date:** September 26, 2005

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

The **Zoning Board of Appeals of the Town of New Windsor**, 555 Union Avenue, New Windsor, New York, 12553 (the "ZBA"), as an involved agency undertaking an uncoordinated review, has determined that the proposed action described below will not have a significant effect on the environment and a Draft Environmental Impact Statement will not be prepared.

**Name of Action:** Quick Chek Food Store with Gas Sales and Car Wash (variances)

**By:** Quick Chek Corporation, f/k/a Quick Chek Food Stores, Inc., 3 Old Highway 28, P.O. Box 600, Whitehouse Station, New Jersey, 08889

**SEQR Status:** Unlisted

**Conditioned Negative Declaration:** No

**Description of Action:** Demolish existing improvements (unoccupied commercial building and unoccupied residential structures) and develop a 7,195 square foot convenience store with gasoline sales together with a 2,500 square foot car wash, involving variances to permit a gas station within 1,000 feet of another gasoline facility fronting on the same street, as well as variances to permit freestanding sign area and facade sign dimensions in excess of that permitted by the Zoning Local Law.

**Location:** Northwest corner of NYS Route 32 and Union Avenue (County Route 69) Section 12, Block 1, Lot 49, Town of New Windsor, New York (the "Property")

**Reasons Supporting This Determination:**

The proposed action is not anticipated to result in any adverse environmental impacts based on the following:

1. The Property is improved with an existing, unoccupied commercial structure fronting on Route 32, as well as several unoccupied residential structures to the rear. The commercial structure, which was expanded at various times over the years, was initially occupied by a restaurant and gas station; later, by a convenience store with gas; and since the 1940's, by a distributor of fuel oil. Thus, the Property has been engaged in the sale of

gas and convenience food items, as well as auto repairs, with auto repairs being conducted until the end of 2004.

2. As presently developed, the Property suffers from several zoning nonconformities, including deficient setbacks. The Applicant proposes to reduce the building coverage by more than half, to 9,695 square feet (7.6%), from 20,470 square feet (16.0%) existing. More than half the site is impervious under existing conditions.

3. The proposed action will neither result in a substantial adverse change in existing air quality, ground or surface water quality or quantity, traffic or noise levels nor in a substantial increase in solid waste production.

4. The proposed action will not result in a substantial increase in potential for flooding, erosion, leaching or drainage problems.

5. The proposed action will not result in an impairment of the character or quality of the existing community or neighborhood character. The proposed use is consistent with commercial uses in the vicinity, as well as with the prior commercial use of the Property.

6. The proposed action does not affect a major change in the use of either the quantity or type of energy.

7. The proposed action will not create a hazard to human health. To the contrary, the ZBA finds that the design of the site utilizes state of the art technology that sufficiently safeguards the public welfare and environment through techniques such as double walled, steel gasoline storage tanks with interstitial monitoring systems to detect any leakage; containment boxes that serve to capture any leakage that could occur and a pumping system to collect and dispose of any such leakage; preventative technology that issues a warning when the storage tanks are 90% full in order to avoid overfilling, and automatically shut off at 95% of capacity; a state of the art fire suppression systems and manual override shut off systems.

8. The proposed action does not conflict with the Town's current plans or goals as officially approved and adopted. The action is consistent with and harmonious with the Town's plans and the proposed action represents a convenience and provides needed services to the public at large.

9. The action will not attract a large number of people to the Property. Instead, the ZBA finds that the action will serve the local populace; is neither a regional attraction nor destination point that tends to attract people from a wide area; and will primarily serve people that are in the area already, many of whom are already on the surrounding roadway network passing by the site.

10. There are no future actions that will be taken as a result of this action which will result in an adverse change in the environment or character of the community.

11. There are not other significant environmental impacts associated with the proposed action.

12. The access points to the site have been designed to eliminate the number of curb cuts serving the Property, and to locate the Route 32 driveway as far from the intersection with Union Avenue as possible, thereby mitigating any potential for traffic conflicts and improving the existing condition by which a driveway is practically in the intersection itself.

**For Further Information:**

Contact Person: Myra Mason, Clerk  
Address: Town of New Windsor Zoning Board of Appeals  
555 Union Avenue  
New Windsor, New York 12553

TOWN OF NEW WINDSOR  
ZONING BOARD OF APPEALS

In the Matter of the Application of  
**QUICK CHEK CORPORATION**  
**(f/k/a QUICK CHEK FOOD STORES, INC.)**

CASE #05-54

SBL 12-1-49

**MEMORANDUM OF DECISION**  
**GRANTING AREA & SIGN**  
**VARIANCES**

**WHEREAS**, the Town of New Windsor Planning Board (the "Planning Board") determined that the application proposed by Quick Chek Corporation (f/k/a Quick Chek Food Stores, Inc.) ("Applicant") should be referred to the Town of New Windsor Zoning Board of Appeals (the "ZBA") for an interpretation and a determination with respect to variances to permit development of a Quick Chek Food Store with associated gas sales and car wash (the "Application") on property identified as Section 12, Block 1, Lot 49 of the Tax Map of the Town of New Windsor (the "Property"); and

**WHEREAS**, pursuant to the Planning Board's referral and Notice of Disapproval of Planning Board Application dated July 17, 2005, the Applicant filed the Application with the ZBA for an interpretation and area variances associated with the proposed Quick Chek Food Store; and

**WHEREAS**, the Applicant was represented by Howard D. Geneslaw, Esq., of the firm Gibbons, Del Deo, Dolan, Griffinger & Vecchione, P.C., who filed the Application with the consent of the owners of the Property seeking the following relief:

Interpretation as to the applicability of § 300-26.A., which prohibits a gas station within 1,000 feet of a gas facility fronting the same street, and if deemed necessary, an area variance from said restriction;

Freestanding sign area of 91.9 square feet (64 square feet permitted); and

Facade sign having dimensions of 3.5 feet in height and 20 feet in width, for a total of 70 square feet, whereas 2.5 feet in height and 10 feet in width is permitted; and.

**WHEREAS**, the Application included the following items:

1. Complete application for an interpretation and area variances with annexed Statement in Support of Interpretation and Area Variances;
2. Plans prepared by Bohler Engineering, P.C., dated May 15, 2005, last revised on August 9, 2005, consisting of fifteen (15) sheets;
3. Boundary & Topographic Survey dated February 11, 2005, last revised May 10, 2005, prepared by Control Point Associates consisting of a single sheet;

4. Title Report prepared by First American Title Insurance Company of New York for property identified on the Town of New Windsor Tax Map as Section 12, Block 1, Lot 49;

5. Bargain & Sale Deed between John R. Antonelli, Joseph J. Antonelli, Sr. and Frank P. Antonelli, Sr. pertaining to the subject property recorded in the Orange County Clerk's Office on November 17, 1986;

6. Colored sign details consisting of three individual details;

7. Color photographs depicting representative samples of the proposed signs;

8. Short Form EAF dated August 12, 2005;

**WHEREAS**, the ZBA has jurisdiction over the Application, notice was published in The Times Herald Record and all required notices were served as required by law; and

**WHEREAS**, the ZBA held a public hearing on September 26, 2005, at which time the Applicant and interested members of the public were permitted an opportunity to present evidence with respect to the Application, and members of the ZBA as well as members of the public had an opportunity to ask questions about the Application, to the extent there were such questions; and

**WHEREAS**, the Applicant presented the following witnesses in support of the Application: (1) Frank Antonelli, Sr., an owner of the Property; (2) Robert A. Vallario, Regional Real Estate Director for Quick Chek Food Stores; (3) Jeff Martell, P.E., of Bohler Engineering, P.C., the site engineer; and (4) Ray DiPasquale, P.E., of Atlantic Traffic & Design Engineers, the traffic engineer; and

**WHEREAS**, no members of the public appeared in opposition to the Application; and

**WHEREAS**, several members of the public expressed their views during the public portion of the meeting that the proposed project represented an improvement to existing conditions and expressed their general approval of the proposal; and

**WHEREAS**, the ZBA has determined to perform an uncoordinated review of the Application pursuant to the State Environmental Quality Review Act ("SEQRA"), 6 NYCRR § 617.6(b)(4); and

**WHEREAS**, the ZBA has determined that the Application constitutes an unlisted action pursuant to SEQRA;

**NOW, THEREFORE, BE IT RESOLVED** that the ZBA has found that the proposed action, consisting of the grant of certain area variances, as detailed hereinafter, is not anticipated to result in any adverse environmental impacts based upon the evidence presented and made part of the record. Accordingly, the ZBA hereby issues a negative declaration with respect to the proposed action, pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law, and hereby adopts the Notice of Determination of Non-Significance, including the findings of fact set forth therein, annexed to this resolution. The



Notice of Determination of Non-Significance is incorporated herein by reference as if set forth at length herein.

**BE IT FURTHER RESOLVED** that the ZBA rendered the following determination on the Applicant's request for an interpretation regarding the applicability of § 300-26.A. of the Zoning Local Law, to the Applicant's proposal for a Quick Chek Food Store that will engage in the sale of gasoline. The ZBA finds that the language, purpose and intent of § 300-26.A. regulates all uses that engage in the sale of gas whether such use is the primary purpose of the use or a lesser included use. Therefore, an area variance is required from the provisions of § 300-26.A which prohibits any gas station from being located within 1,000 feet of any other gasoline facility fronting on the same street.

**BE IT FURTHER RESOLVED** that, based upon the testimony presented and the reports submitted by the Applicant, including the Statement in Support of Interpretation and Area Variances (the conclusions of which are incorporated herein by reference), and in accordance with Town Law § 267-b, the ZBA makes the following findings of fact and conclusions of law:

**Distance Restriction (§ 300-26.A.)**

a. The Property was previously engaged in the sale of fuel, and has been engaged in automobile repairs and the sale of convenience food items, for many years.

b. The Property could be developed as-of-right for a number of high-intensity commercial uses, including a convenience store without fuel sales, a fast-food restaurant with drive-thru facility, a high-turnover sit-down restaurant, a bank with drive-thru facility, or some combination thereof. The ZBA finds that the Applicant's proposal to engage in the sale of gas would not create a substantially greater traffic impact than would the uses permitted as-of-right.

c. The Applicant has located the driveway to Route 32 <sup>to</sup> ~~in a way that~~ minimize any potential for traffic impacts. <sup>to</sup> The testimony of the Applicant's traffic engineer satisfied the ZBA that the site access and the reduction in access points will operate safely and effectively, despite the location of an approved gas station with convenience sales located across Route 32 from the Property.

d. The benefit to the Applicant is evident and substantial; the Property fronts on a busy state highway and has been selected by the Applicant for development of a Quick Chek Food Store based upon the location and surrounding demographics of the community, all which lead to the conclusion that the Property is a suitable site for a convenience food store that sells gas.

e. There are no other feasible methods for the Applicant to achieve the benefits it seeks in developing the Property. The site is uniquely suited to the Applicant's purposes given its highway location and its corner location.

f. There will be little, if any, detriment to the health safety and welfare of the neighborhood by permitting the proposed use at the Property. The findings of the ZBA set forth previously with regard to the technology employed in modern gas sales are

incorporated herein by reference. Moreover, members of the public who spoke at the public hearing supported the additional consumer choice that Quick Chek would provide, and did not express any concerns about impacts on the neighborhood.

g. There are three other locations in the Town of New Windsor where two or more gas stations are located within 1,000 feet of one another other, contrary to the express terms of § 300-26.A. As an example, at the "five corners" intersection in Vails Gate, there are four (4) gas stations (Sunoco, Hess, Mobil and DB Mart), all are situated on corners of the intersection and all are located within 1,000 feet of each other. Other instances of existing gasoline stations within 1,000 feet of one another fronting the same street occur on Route 32 (Gulf and Citgo) and on Little Britain Road (Cenco and Citgo). Consequently, having gasoline stations within 1,000 feet of one another is not inconsistent with the existing character of the Town of New Windsor, and will not create any traffic or safety impacts. The ZBA is not aware of any incidents involving a safety concern or other threat to the public safety and repose caused by the location of these stations in close proximity to one another.

h. The proposed site improvements, including landscaping, and site access improvements represent an improvement to the existing conditions of the site.

i. If the area variance regarding the radius restriction in § 300-26.A. were denied, significant economic injury would be visited upon the Applicant because the Applicant has expended considerable time, effort and finances to the development of the Property.

j. The variance requested, while arguably substantial based on distance, is nonetheless warranted based upon the evidence presented and the unique conditions set forth herein.

**Freestanding Sign (§ 300-45.A.(1)(b))**

k. The benefits to the Applicant in permitting the proposed freestanding sign are not outweighed by any negative impact to the community or zone plan. The freestanding sign will not be situated in proximity to residences.

l. The proposed freestanding sign permits sufficient space to identify each of the three proposed uses at the Property (convenience food store, gas sales and car wash) and to include the relevant price information for gas sales. The size of the freestanding sign permits motorists to see the sign as they approach the Property, thereby permitting sufficient time to recognize the services provided at the Property and to undertake signaling, braking and turning maneuvers in a safe fashion resulting in safer and more efficient traffic flow into the site.

m. The proposed freestanding sign is harmonious with the surrounding area which includes other commercial uses.

**Facade Sign (§ 300-45.A.(2)(a))**

n. The proposed dimensions of the facade sign are appropriate given the size of the site and the fact that the sign will be located on the building facade approximately 200

feet from Route 32. A conforming sign having a height of 2.5 feet and a width of 10 feet at this location would not be an effective sign given the distance to the highway.

o. The "Quick Chek" portion of the proposed facade sign will measure 2.0 feet in height (consistent with the Zoning Local Law) and 16 feet in width. The red stripe which appears below the "Quick Chek" channel lettering will not contain any lettering, as the Applicant testified, and therefore arguably is not itself a sign. The need for the variance arises from taking the outer dimensions of the "Quick Chek" channel letters and the red stripe, which as the Applicant testified is the most conservative way of measurement because it produces the greatest dimensions.

p. The sign will not be visible from nearby residences and is harmonious with the character of the area which includes other commercial uses.

#### **Freestanding Sign and Facade Sign**

q. If the Property were improved with additional businesses, each would be entitled to its own sign, such that more signs could be allowed as-of-right if the Property were developed differently.

r. Even if the need for the requested sign variances is considered to be self-created by the Applicant, the variances are nonetheless warranted. The overall sign dimensions and area proposed by the Applicant are more in conformity with the Zoning Local Law than the existing conditions. The existing building has 7 signs which collectively amount to ±200 square feet. This application will reduce the number of building signs as well as the overall sign area.

s. The benefits to the Applicant in permitting the proposed signs outweigh any limited negative impact to the community or zone plan. The proposed signs benefit the Applicant by identifying all the proposed uses, maintaining consistency among stores, and fostering store recognition (particularly in this instance where Quick Chek Food Stores are new to the Orange County area), but have little or no negative impact.

t. The requested variances are appropriate and are the minimum variances necessary and adequate to allow the Applicant relief from the requirements of the Zoning Local Law and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

**BE IT FURTHER RESOLVED** that the ZBA, having received and reviewed the Orange County Planning Department's recommendation dated September 8, 2005, that the sign variances be denied, voted unanimously on September 26, 2005 with all members present to grant the following area variances:

i. § 300-26.A. Variance to permit gas sales at the Property within 1,000 feet of another gasoline facility.

ii. § 300-45.A.(1)(b). Variance to permit 27.9 square feet of freestanding sign area in excess of that permitted by the Zoning Local Law, for a total permitted sign area of 91.9 square feet, whereas the Zoning Local Law permits 64 square feet.

iii. § 300-45.A.(2)(a). Variance to permit a facade sign having dimensions of 3.5 feet in height and 20 feet in width, for a total of 70 square feet, whereas the Zoning Local Law permits 2.5 feet in height and 10 feet in width.

All variances are granted as sought by the Applicant in accordance with the plans filed and presented at the public hearing.

**BE IT FURTHER RESOLVED**, that the clerk of the ZBA shall transmit a copy of this resolution to the Applicant and the Planning Board, and shall, within five business days as required by Town Law § 267-a.9, file a copy with the Town Clerk.

Moved: _____	Ayes: _____
Seconded: _____	Nays: _____
	Abstentions: _____

QUICK\_CHEK\_FOOD\_STORES\_(05-54)

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MR. KANE: Request for interpretation of code Section 300-25(a) relative to 1000 ft. spacing between gasoline facilities/stations. As per bulk tables this application is for convenience store with gasoline sales, freestanding sign, request for 27.9 square feet for sign, wall sign, request for 45 square foot for wall sign all at corner of Route 32 and Union Avenue in an NC zone.

Howard D. Geneslaw, Esq. appeared before the board for this proposal.

MR. KANE: You can proceed, sir.

MR. GENESLAW: Thank you. Good evening, my name is Howard Geneslaw from the law firm of Gibbons, Del Deo, Dolan, Griffinger & Vecchione and I'm here tonight representing Quick Chek Food Stores. Just by way of a little built of background as the chair indicated, this is an application in the alternative we're first asking the board to determine that the 1,000 foot radius requirement does not apply in this instance. And if the board concurs with that position then there's no need to address an area variance. If the board disagrees, then we would need to put in testimony in support of the area variance and we did ensure that the notice covered both of those so we would not need to come back for a second hearing. And then separately we're also seeking two sign variances, one for a freestanding sign and the other for a wall mounted sign. We also as I mentioned in our initial appearance on August 22 are seeking a classification from the board that this is an unlisted action pursuant to SEQRA. It was our understanding based on discussions with the Town engineer and our appearance at the planning board that the zoning board of appeals would be undertaking uncoordinated review pursuant to SEQRA and so in addition to the classification as unlisted

action, we also are seeking a negative dec on the basis that there will be no adverse environmental impacts or that any identified environmental impacts will not be significant. Now we did submit as part of the application a statement in support of the interpretation of an area variance in which we outlined a number of legal arguments. I'm not going to go through all of those again although you will hear some of them as part of our presentation. I would envision starting out with the interpretation and presenting our arguments in support of it and then depending on whether or not the board is receptive we can proceed with the testimony on the variance from the 1,000 foot requirement, if that becomes necessary. So if the board has no questions, I would call the first witness at this time.

MR. KANE: Go ahead.

MR. GENESLAW: I'd like to call Frank Antonelli as the first witness.

MR. GENESLAW: Mr. Antonelli, would you just state your name for the record and spell your last name for the recorder please?

MR. ANTONELLI: I'm Frank Antonelli, I live at 360 Union Avenue, last name A-N-T-O-N-E-L-L-I.

MR. GENESLAW: Mr. Antonelli, could you describe for the board what your relationship is to the subject property and are you the owner of the property?

MR. ANTONELLI: I'm the owner, my family owned the property since 1930 and we were in the process of leasing it to Quick Chek.

MR. GENESLAW: So being that it's a lease as opposed to a sale, your family will continue to own the property?

MR. ANTONELLI: Exactly.

MR. GENESLAW: And could you describe how you came to select Quick Chek as the proposed tenant for the property?

MR. ANTONELLI: Well, in the process of about two years to locate a proper company for that corner it's a hub of New Windsor we have been there since 1930, my family's been there, I've been there all my life and we came across Quick Chek Foods Inc. because it's a family operated operation which we're in favor of, very successful in New Jersey, they run a good store and we're very much in favor of that.

MR. GENESLAW: I'd like you to describe the history of how the property has been used since it came into your family's ownership?

MR. ANTONELLI: Well, 1930 my parents came from Brooklyn, New York and they bought that corner, they built a little restaurant, it started out as a gas station and it proceeded into a mini-mall and we ended up in the fuel oil business in the early '40s so we're fourth generation on that property. I live in New Windsor, I have no intentions of moving. I live up the hill actually from that site.

MR. GENESLAW: You mentioned that the property was used as a gas station at some point, do you recollect about what period of time that was and for how long?

MR. ANTONELLI: I think it was a gas station in the beginning probably about at least 20 years.

MR. GENESLAW: And do you have a photograph that identifies that?

MR. ANTONELLI: I do have a photograph here. Can we submit this, please?

MR. GENESLAW: Would you describe what's shown in the photograph?

MR. ANTONELLI: This is a photograph of the original building as you can see there are pumps here, it's a Mobil Station we operated.

MR. KANE: Circa 1940?

MR. ANTONELLI: Approximately, yeah, well, the building was started in 1930.

MR. KANE: Do you know how long they were pumping gas down there, how many years?

MR. ANTONELLI: Probably at least 30 years.

MR. KANE: I'll pass that photo around.

MR. GENESLAW: I have the 12 additional photographs that I'd like to present. I'd like to ask you to describe what's depicted in the photographs, would you describe what's shown in those photographs please?

MR. ANTONELLI: What happened was my parents kept adding, made a mini-mall out of this, this is what it ended up to be, Levine's Garage was on the end, we went into the fuel oil business so we rented out the garages and this is what it was up to last January, here's another picture shows you the location.

MR. KANE: So you had a garage and the fuel oil business running out of this building?

MR. ANTONELLI: Exactly.

MR. KANE: Any storage of oil on that location?

MR. ANTONELLI: No.



MR. GENESLAW: The garage that was conducted there that was the repair of automobiles?

MR. ANTONELLI: Right.

MR. GENESLAW: If you note--

MR. KANE: How long ago did we stop selling gas?

MR. ANTONELLI: Gas I would say probably in the '50s.

MR. GENESLAW: And those photographs show the evidence of the auto repair that took place at the property, as well you may see a Goodrich sign and an oil sign, again, all of which indicate that auto repair was taking place until Mr. Antonelli indicated January of this year. Now, during the time that the property has been in your family's ownership and in particular when it was used for the sale and the pumping of gasoline were there any traffic problems or any problems with fires or explosions?

MR. ANTONELLI: Never, no, never had any problem.

MR. GENESLAW: Any safety issues that related to the sale of fuel that you recall?

MR. ANTONELLI: No, never had any type of problem, safety problem down there.

MR. GENESLAW: I'd like to--

MR. ANTONELLI: Never had a traffic problem either.

MR. GENESLAW: I'd like to direct your attention to the property across the street which was previously used as a gas station, do you have any recollection about how long that property has been used as a gas station?

MR. ANTONELLI: I think it was probably the last 20 years before that it was a garage, it was a repair shop I think it was.

MR. KANE: Talking about the DB Mart/Hess station?

MR. ANTONELLI: It started out it was a service garage started out Fergazi (phonetic) Brothers ran it for quite a few years, they went out of business then they sold it and it became a convenient store that's when it became a gas station.

MR. KANE: I know that's been there at least 20 years.

MR. ANTONELLI: However it changed hands quite a few times, it's gone bankrupt I understand, we have no objections to the Hess Oil company but we'd like to also open up Quick Chek Food chain.

MR. GENESLAW: For about how many years were auto repairs taking place on your property starting with the end of last year going backwards?

MR. ANTONELLI: Auto repairs, it started auto repairs started in early '40s.

MR. KANE: Can I ask a question? Why are we focusing on auto repairs?

MR. GENESLAW: Well because the--

MR. KANE: We're not doing any repair, we're doing gas station and convenience.

MR. GENESLAW: Quick Chek is not doing auto repairs but in the zoning code the 1,000 foot radius restriction applies to gas stations and auto repair facilities and I just established through Mr. Antonelli's testimony for at least the last 20 years both properties have been engaged in one or the other of those uses.

MR. KANE: One's been engaged in gas, the other has been engaged in auto repair, no gas sales for the last 50 years approximately.

MR. GENESLAW: Correct, that's correct, the provision in the code though talks about 1,000 feet from a repair garage and also talks about a gasoline station and I think there's argument to be made that both properties were so engaged in those uses before the 1,000 foot radius restriction came into effect and that's an additional reason why we're asserting that the board should interpret the 1,000 foot restriction as not applying in this instance. I just wanted to get the historical background established for purposes of that argument. So I think that concludes my testimony from Mr. Antonelli, unless there are any questions.

MR. KANE: None at this point, I think what I want to do is--

MR. ANTONELLI: Thank you very much.

MR. KANE: I want to open it up to the public and hear what the public has to say.

MR. GENESLAW: Now I'd like to call my next witness or take public comment.

MR. KANE: How many witnesses do you have?

MR. GENESLAW: On the interpretation, I have one additional witness.

MR. KANE: Let's finish that and we'll hear from the public.

MR. GENESLAW: Robert Valario is the second witness.

MR. VALARIO: Good evening, my name is Bob Valario, I'm

the regional real estate director for Quick Chek Food Stores and I appreciate the opportunity to stand before you tonight to tell you a little bit about Quick Chek, what we do, where we come from.

MR. GENESLAW: Bob, why don't you first start by explaining to the board who Quick Chek is and how they came to engage in the sale of fuel oil?

MR. VALARIO: Quick Check Food Stores is a company based in New Jersey, we're in white House, New Jersey, which is in west central New Jersey. We have been in the convenient store business since the mid 1960's, we opened up our very first store in 1966 followed by our second store in 1967. Our focus, our mainstay of operations is always in the convenient store. Actually it started off as many of you probably remember as the milk stores that were around at one time where you got your milk, eggs and bread and eventually those grew to be more items and their whole industry of convenience then grew out of that concept all across the country and we were no different. The purpose of that of course was to provide a service to the community where there was a lack of food items, grocery items. Typically given neighborhoods that have a proliferation of convenient stores that started through the years as any business, any entity things grow and items are added and in the convenient store industry it became part of the norm to add as part of its offering the dispensing of fuel and in Quick Chek, we started embracing that concept as well in the year 2000.

MR. GENESLAW: For the stores that sell both convenience items as well as gas, can you give the board an indication what percentage of your customers are engaging in the use of the convenience store?

MR. VALARIO: Of course it depends on the location but our internal studies show that it's usually 60 percent or better of the number of patrons who come on to the

property and make use of the convenient store.

MR. GENESLAW: So then is it fair to conclude that Quick Chek views itself as principally a convenience store which sells fuel for the convenience of its customers.

MR. VALARIO: And if you take a look at our type of operation as proposed for particularly this particular site we're typically about twice the size of what you're typically accustomed to. Most of your oil companies, your branded oil companies are in the business of selling fuel with the items in the store as a secondary line. And typically you'll find in those stores more of the snack items and beverages than you will of the traditional convenience items whereas in our case in this particular exhibit outlines for example the store that's being proposed approximately 7,200 square feet versus a typical 3,000 square foot store, this is the interior dimensions of our store, this is the exterior dimensions of a 3,000 square foot store, the linear footage of the shelving that we have is almost 188 foot loaded up with all kinds of grocery items. We have never abandoned that. So you can get diapers, baby food, dry goods, et cetera. We also have an offering of between frozen items and fresh items behind the cooler doors and so forth. We have a full deli counter, a coffee bar, et cetera, so we position ourselves always as a convenience store and we have added dispensing of fuel as just an add-on item to what we currently do provide.

MR. GENESLAW: Quick Chek store is more than double the size of your typical On The Run or other facilities associated with the gas station?

MR. VALARIO: Yes, absolutely.

MR. GENESLAW: How do the number of items with the products sold compare?

MR. VALARIO: As I mentioned earlier, the number of items we carry somewhere close to four to five thousand items and it's a broad based collection of food items, again, if you're going into an On The Run or a local shop that maybe also has food items, you'll find the predominance of those to be pretty much snack items, beer, beverages, chips, things of that nature. We have that but our predominance is also on the food line so again, we offer milk, bread, eggs, freshly prepared food products and a whole host of grocery items as well.

MR. GENESLAW: Could you draw a distinction between a convenient store that sells gas as a convenience to its customers compared to a gas station that sells soda and snacks and cigarettes and things of that nature?

MR. VALARIO: Yes, as I previously mentioned, the emphasis on our company is on the convenient side of the store with the addition of the dispensing of fuel, almost all fuel companies emphasis is on fuel with the store as a secondary. We will employ somewhere between 25 to 35, maybe 40 employees in this particular store. Our stores are all company owned and operated. We don't franchise. The predominance of the people who work in our store come from the very neighborhoods where the stores are located, so we treat this as a miniature grocery store. Our departments are delineated that way, we have a deli manager, a dry goods manager, et cetera, as compared just to someone behind the counter collecting money because the predominance of the sales is in fuel.

MR. GENESLAW: Just to draw your attention to the zoning code for a moment, to the best of your knowledge, is there any playground, church, hospital, or library within 200 feet of this property?

MR. VALARIO: Not to my knowledge.

MR. GENESLAW: No servicing of vehicles that's proposed?

MR. VALARIO: No, we will not service vehicles.

MR. GENESLAW: Thank you. I have a number of legal arguments to sort of tie altogether which I'd be happy to address now.

MR. KANE: Go ahead.

MR. GENESLAW: What I did was because these are a little bit technical so I brought copies here of these sections from the code and I thought that might help to clarify the arguments that I will be making. I'd ask you to pass them down, there's three different ones there. Thank you. What I have done just to copy three specific pages out of the code that relate to the issue that's before the board tonight and the main focus is on Section 300-26A which is the provision that deals with the 1,000 feet and what I'd like to do is just sort of walk through that briefly, if I may, 26A applies only to gasoline stations and repair garages by its own terms. Now since we're not talking repairs clearly we're not dealing with a repair garage even though that term is not one that's defined in your zoning code. Now, the term gasoline station also is not defined in the zoning code, the code does define gasoline service station and it defines that as a facility primarily for the servicing of motor vehicles so again because there's no servicing taking place, we don't believe that this use constitutes a gasoline and service station. Twenty-six A also uses the term gasoline facility and that term also is not defined in the codes. We don't believe that that term would apply to Quick Chek because as you've heard, Quick Chek's principal operation is as a convenience store, not as a gas station, gas sales is something that's ancillary and for the convenience of the customer. So the

position that Quick Chek is advancing is that the 1,000 foot restriction doesn't apply in the, in this instance because Quick Chek is not a gasoline station. Now, if you look at the bulk table which is also one of the documents that I just passed out you'll see under the special permit uses of the planning board in the NC district it talks about this is paragraph 7 column B it talks about permitted gasoline stations including convenient stores which sell gas, service repair garages, car wash and car rental facilities. Now, what that paragraph does is it establishes a series of separate and independent uses and the use that Quick Chek falls within would be a convenient store which sells gas. Now, the provision in 26A that I talked about before that imposes the 1,000 foot requirement is specifically limited to gas stations and repair garages, it doesn't include convenient stores which sell gas, it also doesn't include car washes and it doesn't include car rental facilities. Certainly the Town Board when they were adopting the zoning code could have included those individual separate uses had they chose to even do so and so by virtue of the fact that they have not, that suggested to me that they're separate and independent uses and that convenient stores which sell gas were never intended to be included within 26A that applies to the--

MR. KANE: So you're saying the line in 26A that says a gas station may include a convenient store which customarily sells retail products and food including deli or bakery franchise, fast food, that's not a gas station?

MR. GENESLAW: I'm saying they're basically two different uses, the one references 26A, a gas station that sells retail products and food, right I'm saying--

MR. KANE: So you're a convenient store that includes a gas station.



MR. GENESLAW: The focus as you heard Mr. Valario talk about is a lot different, the retail area is more than twice as large, the main focus is on sale of convenience items as opposed to fuel, whereas the typical oil company the main focus is the sale of fuel and the convenience items are add on, soda, snacks. So Quick Chek's position is that the code essentially establishes two separate uses. And if you look at the bulk table, the bulk and use table and you compare that with the language in 26A, it does lend itself to there being two separate independent uses, the same way if you look in the bulk table it talks about car washes and car rental facilities being special permits, those are not included in the 1,000 foot radius restriction. So similarly we would argue that convenient stores which sell gas also were not intended to be included in the thousand feet. So that's the summary of Quick Chek's position as far as the interpretation is concerned. If the board after public comment and deliberation is in agreement with that position, we need not go further on the thousand foot issue, we can move into the sign variance testimony. If the board disagrees with our position, then in the alternative we'll be seeking a variance on the thousand feet and we'll present some additional testimony in that regard.

MR. KANE: Okay, thank you. I'd like to open it up to the public and see what you guys have to say. Would you take this out? We're going to pass a sheet around for your name and address for the stenographer. At this point I'm opening up to the public if anybody has anything they want to say please state your name and address, please stick to the topic and try not to be repetitive. Anybody want to talk?

MR. WELNER: My name is William Welner, 1009 Ethan Allen Drive, Patriot Ridge, I'm just curious what this proposal is. Can I take a look at the drawing up here?

MR. KANE: Sure.

MR. WELNER: What exactly is he asking the board for?

MR. KANE: They want to put a convenience station, gas station on the far corner. Sir, what would be good can explain what you're doing if you can turn that so the public can see that way maybe we can answer a couple questions up front.

MR. GENESLAW: I think what I'll do I'll ask our site engineer who's here tonight to explain it because I'm sure he can do it better than I can.

MR. MARTEL: Jeffrey Martel, sign engineer from Bohler Engineering. The application this evening is to construct a Quick Chek Food store which is basically the large gray area in the middle. As I was saying, we propose a 7,200 square foot Quick Chek Food Store which is the large beige area in the middle. In addition to that, we propose a gas sales in the form of a canopy and pumps in this light area, there's 16 fueling positions associated with the application, beyond that is a car wash in the rear of the site that's a 25 foot by 100 foot car wash, in addition, there will be a full movement driveway proposed on Route 32 and two driveways proposed on Union Avenue, also known as County Route 69, one driveway closest to the intersection will be restricted to not allow left movements out of the site. Additional site features include an excessive amount of landscaping, retention basin in the front and some other minor site features such as trash and recycling enclosure. There will be a total of 58 proposed parking spaces, just a point of reference, this is an existing Quick Chek facility located in Hazlet, New Jersey, it has all of the same features that I showed you on the board previous to this with the exception that this facility did have a car wash but you'll see a typical Quick Chek building, typical Quick Chek car wash, excuse me, canopy with the fuel pumps, additional signage and some variance other

photos showing the landscaping and general site features.

MR. KANE: Does that answer your question, sir?

MR. WELNER: Yes.

MR. KANE: About what we're doing there?

MR. WELNER: Yes, but my question is do these--

MR. KANE: Basically what the two things they're here for a couple variances on signs and the normal kind of thing, the other thing is they're here because New Windsor on a major highway has an older law that's been there that states no gas station can be set up within another gas station within 1,000 feet on a major highway and that's what it comes down and 32's a major highway.

MR. WELNER: That one's closed down?

MR. KANE: The one right across the street Hess is already going to be rebuilding, got their variances, they're going to be reopening whenever, so specifically the major point on this is the interpretation on the 1,000 feet rule.

MS. Noel: Nancy Noel (phonetic), I live in Wallkill, 579 Fostertown Road in Vails Gate. There's four gas stations right there, I don't understand that.

MR. KANE: Neither do I. I don't know if they predated zoning or what this is an older rule that's been there honestly I just don't know that's before my time being here but that was one of the questions I had.

MS. NOEL: Thank you.

MR. WELNER: I have a feeling there's enough gas

stations around, that's my feeling.

MR. KANE: Thank you very much. Anybody else?

MR. WELNER: I have no problem with food store, that's fine with me, got enough gasoline stations.

MR. KANE: Anybody else have a question or okay once I close it, it's closed. No other questions at this point we'll close it to the public, bring it back to the board. Let's take care of the interpretation first and then as needed or if needed we'll go to a variance scenario for the 1,000 foot if it's declined.

MR. KRIEGER: If I may, I think the first thing that the board should do is address the SEQRA requirement and in this case you have two alternatives, you can either declare a negative declaration which means that it has, will have no environmental impact as defined in the statute or a positive declaration which means that it either does or it may have, maybe is included in the positive and if there's a positive declaration then you have to indicate what the next step is for the applicant. And I think that's the first thing you have to do before because that applies to both the interpretation and the variances and all of the applications here. Once that's done, when you reach the statutory interpretation because it's a little different than the application is that this board has had in front of it in the past just want to touch on a couple of basic principles of statutory interpretation. If you find that a particular phrase is defined in the statute you must apply the statutory definition. If you find that it is not defined in the statute, then the phrase is to have its common regular plain English meaning. When interpreting any statute, you must presume that the authors of the statute meant to use the words that they meant, you may not assume that they were, it's a mistake or an oversight or redundancy or anything else, if they used a particular term, you must

assume that they meant to use that particular term and those words and not other words. With those basic principles which I offer for guidance the board should decide whether or not this statutory interpretation should be adopted or not and that's the task of the board.

MR. KANE: Thank you. So first thing we need is a SEQRA negative declaration would be my opinion on it.

MR. MC DONALD: Do we have a copy of the SEQRA report?

MR. KRIEGER: Did they ever complete?

MR. GENESLAW: Applicant submitted a short form EAF as part of its application.

MR. MC DONALD: I find it kind of hard for me to make a decision on anything that I haven't seen.

MR. KRIEGER: I might point out in this connection it is up to the board whether that supplies sufficient information or not. Short form is customarily asked for from the applicant, it's a minimum to meet the minimum standards but if you find that that doesn't answer questions that you have, you're not bound by it.

MS. LOCEY: May I ask why the Zoning Board of Appeals is entertaining the question why it's not a planning board issue since they're the ones?

MR. KRIEGER: There also is a SEQRA review in connection with the planning board. In order to avoid a separate SEQRA proceeding, an all encompassing proceeding, what has been done in the past and what is being done here is this board will conduct a SEQRA review for its own finding what's called an uncoordinated review, it's binding only on the Zoning Board of Appeals, not on anybody else, when if the application were either an application for an

interpretation or variance were granted here, it would go back to the planning board for a site plan review. At that point, they'd do a SEQRA review which would be not--

MS. LOCEY: I understand, don't have a problem with that. I'll offer a motion to make a negative declaration on the short form EIS.

MR. BROWN: I'll second it.

ROLL CALL

MS. GANN	AYE
MS. LOCEY	AYE
MR. BROWN	AYE
MR. MC DONALD	AYE
MR. KANE	AYE

MR. KANE: I will now accept a motion on the interpretation.

MS. LOCEY: I'll offer a motion that the application of Quick Chek Food Stores does fit into the New Windsor code as described as a gasoline service station.

MR. KRIEGER: Would it be acceptable to say that in your motion that Section 300-26A does include this application.

MS. LOCEY: That's correct.

MR. KANE: I'll second it.

ROLL CALL

MS. GANN	AYE
MS. LOCEY	AYE
MR. BROWN	AYE
MR. MC DONALD	AYE

MR. KANE

AYE

MR. KANE: So we move on. The interpretation is that we find it's still a gas station and the 1,000 foot rule applies we'll proceed with a hearing on a variance for that and the signs.

MR. GENESLAW: Thank you. What I plan to do is call two witnesses and just to facilitate things, I'm going to ask them about the, to give testimony on all the variances all at once so I need not have them get back up again. Jeff Martel, come back up, he's the site engineer who prepared the plans and I'd like to begin by talking a little bit about the equipment that the service station will employ to reduce the potential hazard or fire explosion, things like that. For the long history of these radius restrictions involving gas stations in New York State dating back to actually the beginning of the century, there's a lot of case law in the '50s and '60s that talks generally about how the two principle reasons are the potential risk of fire and explosion and secondarily potential traffic impacts. So I'm going to ask Mr. Martel to focus specifically on the former and then our traffic engineer will talk a little bit about traffic. So could you describe for the board the types of equipment and procedures that are in place to make this a safe operation?

MR. MARTEL: Of course. I think it's important to note now just to take a quick step back that with the determination that we are indeed a gas station, one of the variances that we're here to seek is that our facility cannot be located within a 1,000 feet of another service station. There's a, of course the Sunaco station across the street that's now in transition, let's call it, it's our understanding there's a Hess application in the process, so of course our facility would be across the street from a gasoline station. So we'd require the variance for the 1,000

foot separation. As Mr. Chairman described it, there's an old law that's essentially the ordinance was written some time ago of course when there was a fear for safety, there was a concern about the equipment being utilized for gas stations, storage of a large amount of fuel, dispensing of that fuel at the fuel pumps and the equipment at that time was of course inferior to what's being proposed today. There has been a large amount of technological advances since this ordinance was written and what I'd like to do is just describe a system that we propose to install today and describe to you how it is superior to the systems that were in place when this ordinance was of course passed. As far as the gas station that we propose to construct today there are variance safety elements that of course we'll be constructing which will far exceed the state requirements for the construction of such a facility. Specifically, we will propose double wall steel tanks with innerstitial (phonetic) monitoring, the tanks are in this light gray area here at the top of the page, point of reference would be the north side of the site, the top being north, this being Route 32, there are three underground fuel storage tanks proposed in this area with double wall steel tanks innerstitial monitoring that's a system that's set up to monitor the pressure of the area between the two steel walls of the tank, so if there were a fracture on either the outside wall or the interior wall the monitoring in between the wall would detect the pressure and there would be a sensor, a monitor and inside the store employees would be notified of such a fracture. In addition to that additional feature is overspill monitoring, which is essentially when the fuel tanker comes to fill the fuel storage tanks, there's a 90 percent warning which when the tanks are 90 percent full, it will alert the fuel delivery man that the tank is getting close to full and 95 percent fuel there will be an automatic shutoff which will shut the hose off from dispensing additional fuel into the tank so there's no case of overfilling the tank. In addition to that, there's also a five



gallon sump fill containment box within the fill area to detect any potential leaks that may occur while the gas fuel delivery man is actually hooking the hoses up into the tank, there's a detection area there. In addition to the double wall tanks, there's a double wall piping system which is essentially tested twice, once when the first single wall of the piping system is in place there's a pressure test that's run to ensure that it meets the required codes. Once that has been deemed adequate and exceeds the code regulations the second wall is completed at all the joints and then the area in between the two walls is tested to again meet certain pressure regulations to ensure that both the interior wall and the exterior wall are sufficient. There's at each dispenser there's a containment box again with a sump to again detect any fractures or leakages in the piping system. There's a double sheer valve at each dispenser which indicates that there's any extraordinary stresses or forces on the pumps, the sheer valves would both shut off the line back to the tanks and the line from the dispenser out to the hose that actually fuels your car. New York State requires that a fire suppression system is installed which of course will be installed, what that is is a canister which holds an agent, a dry chemical fire suppression agent that is stored on each column and there's a head to dispense the chemical out over each fueling position or each pump that has a heat sensor and is interconnected throughout all the columns. If the area reaches a certain heat due to fire or what have you, the entire system would be activated and that would be spread out through the entire canopy region. There are also shut-off valves at both the kiosks and the front of the store, these being automatic shut-off valves that can be reached, of course the attendants are trained to know exactly where they are and they are visible to the public as well in case of an emergency. Something that Quick Chek does as far as the site layout that further promotes the safety is that they have a fueling zone and many service stations you'll

see that the fueling happens in the parking lot or drive aisle areas, sometimes it's coned off, sometimes it's not, it's often in a main area where there's traffic trying to pass by. Quick Chek, one of their standards adds this 15 foot wide fueling zone, the truck will fuel off to the right and have a nice contained area that won't be exposed to traffic or pedestrians in that area so it will be contained in that, also additional wider drive aisles that further allow the cars and the trucks to move around the site freely. This is not a tight service station jammed up against an intersection where you're kind of, we've gone in and out of the pumps, this is a nice, it shows us the layout that will allow free circulation around the site. In addition as part of our office's investigation of this site was that we also reviewed other sites within the Town, other gas station facilities which I'm sure everybody is aware of, there's three areas I want to point out where and I think we touched on this briefly before where there are gas stations that are currently within a 1,000 feet of each other most notably I think what was pointed out was at the Five Corner intersection of Routes 94, 32 and 300, there's essentially five corners of the intersection, four of them are currently gas stations, as far as safety's concerned, they have curb cuts much closer to the intersection. The pumps are much closer to the right-of-way, the canopies are on top of the right-of-way, this is a far superior site design as far as distance from driveways to the intersections, controlled access points, the distance between the pump and the intersection of course and there's no, there's a large basin, detention basin in between so it's not really right next to the intersection by any means.

MR. KANE: Could you address the ingress egress from the site?

MR. MARTEL: Sure, I guess point of reference right now the existing site conditions and this would be an

aerial photo taken of the site of course outlined in our site is the yellow, right now, there are I believe two or three driveway cuts on Route 32 and an additional two along County Route 69, two of which are very close to the intersection in its current condition. What we're proposing right now for a total of three driveways, three ingress egress driveways, one of which is at the northern end with frontage on Route 32, proposed to be a full movement driveway, this is a 39 foot driveway, it does have two lanes for egress, one to make a right, one to make a left, an additional point for the ingress.

MR. KANE: So on that one particular one you have three lanes?

MR. MARTEL: There are three lanes, correct. On the Union Avenue frontage we do have two driveways, they have been pushed back away from the intersection, the driveway closest to the intersection has one restricted movement and that's the left egress, so you cannot make a left out of this site towards the traffic signal, you're only permitted to make a right out. If you'd want to make a left, you would have to come to the driveway further west and which is a turn further away from the intersection and make that left away from the turn lanes that are associated with the intersection.

MR. KANE: Is that going to be an entrance too?

MR. MARTEL: This would be a full movement driveway and this would be full ingress which means you can come in, make a right or left but you cannot exit making a left so this would be the only restrictive driveway.

MR. MARTEL: As described just to complete there are two other areas where the service station currently within a 1,000 feet of each other actually in both those cases they're right across the street, one of which is further south on Route 32 which I believe is a

Gulf and a Citgo and then again on Little Britain Road I believe it's a Citgo and Cenco, if I'm pronouncing that correctly. So there are three current areas active where the gas stations are right across the street from each other. So this wouldn't be something new to the Town of New Windsor, I would like to further point out with the superior or the advanced system that we'll be installing as far as the gas equipment, the pumps and the fuel tanks, there's no additional safety concern that comes out with two gas stations being across the street from each other. Therefore, so even though the Hess is proposed to reopen, I wouldn't see any additional safety concerns with having the two gas stations operate across the street from each other.

MR. KANE: Hours of operation?

MR. MARTEL: The Quick Chek is proposed to operate 24 hours a day seven days a week both gas and the convenience store, car wash, I know we had talked about it but it will be limited to probably, I don't know exactly for sure but 9 or 10 o'clock at night as far as that's concerned.

MR. KANE: Planning board would handle that.

MR. GENESLAW: If there are no other questions from the board on the 1,000 foot issue then we can talk about the two sign variances.

MR. KANE: Sure.

MR. GENESLAW: Why don't we start with the wall sign variance maybe as a point of reference we can start with the photograph of the, and this will give us a good idea of the amount of signage that's located on the building currently and again this is really just showing as a point of reference seeing as the building is to be removed but it gives you a sense of what's there today and how it would change.

MR. MARTEL: Yeah, current requirement in the Town of New Windsor for signage is that one wall sign is permitted per tenant or business, per business not to exceed 2 1/2 feet in height by 10 feet in width which equates to 25 square feet. What we propose today is a 3 1/2 foot by 20 foot wall sign on the front of the Quick Chek as you can see here for a total of 70 square feet, just to give you a point of reference as far as where that's located on the site this little bump out in the beige area equates to the--

MR. KANE: Approximately how many feet off Route 32?

MR. MARTEL: 205.

MR. KANE: Illuminated.

MR. MARTEL: Internally illuminated channel letters, no flashing, it's not a--

MR. KRIEGER: Steady illumination.

MR. MARTEL: Each letter will be illuminated individually as a point of reference in the photos that you have the front facade of the building that exists today is approximately, has approximately seven advertising signs, two additional signs that give a phone number and address but there are seven advertising signs totaling a 178, 180 square feet plus or minus what we're proposing of course is 70 square feet. In addition, there's some additional signs on the side of the building that 180 is all along the front so that all faces Route 32, there's some additional signs on Union off site and there's one freestanding sign so total plus or minus 220 square feet of signage on the site today. About 200 square feet of that will be wall signs, again, as briefly described 3 1/2 feet high by 20 feet wide for the Quick Chek sign, the words Food Store and I believe 24 hours

we'll be removing from the sign so the channel letters will be illuminated, white channel letters and the red band underneath will be illuminated but there will be no words within that red band. We'd like to point out a couple things to the board most notably that the sign definition in the ordinance we interpret it very conservatively when we say 70 square feet we mean the entire box one single box around the entire sign all the way out to the edge of the red band that would be the 70 square feet. If you looked at the definition a little closer and looked at the sign a little closer you could argue that essentially you can make a smaller box around the Quick Chek, smaller box around Food Store and just count those as the signage to be conservative on the plan. We noted 70 square feet but if you were just to actually add up the area of the Quick Chek and add up the band it would be 46 1/2 square feet so we'd like to stress that the 70 square feet is a number that seems big because we're adding a lot of area that isn't considered signage, we did that as a conservative estimate of course. The channel letters of the Quick Chek will be 2 feet high by 16 feet long, so now those are 32 square feet, the red band will have no words on it, it is proposed to be illuminated but it will not have any words on it, any advertisement of any kind, it's the Quick Chek logo as part of their brand recognition, something that's been around for a long time, obviously you'll see it in and around the canopy and within their store and it's obviously important to them but the words Quick Chek we'd like to focus on and that will be 2 foot high by 16 feet long for a total of 32 square feet. I would like just to point out one other thing to the board and that would be that the sign density as I will call it the ordinance requires since we're deemed a gasoline station I believe 125 foot minimum lot width, we have approximately I think about 250 we have a 170 plus an additional area so although 125 square feet would be allowed 2 1/2 by 10 foot sign we do exceed that frontage and we'd like to just keep that thought in

mind that additionally with only a couple more linear feet we could technically create a subdivision and you'd get two signs. What I'd also like to point out couple other things just to bear in mind the building's located 200 feet from the Route 32, if the site were located 300 feet from the frontage, it would be allowed 3 1/2 foot height, something to consider. And lastly if a building did have another main entrance if we were to put another main entrance on this Union Avenue frontage, we would be allowed another sign by definition of the ordinance. We don't, we want to promote the front of the store on the state highway so we have located all our signage facing the state highway as far as building signage and we have, we haven't asked for that additional building sign which we could be permitted with an additional entrance.

MR. KANE: To clarify on the main building it's going to be one sign on the front of the building?

MR. MARTEL: One sign facing Route 32, the front of the sign. As far as the I.D. signs, the freestanding identification signs that we propose there is of course one existing sign out there approximately 18 square feet, we're proposing two freestanding identification signs, again, internally illuminated signage, no flashing, one sign would be on Route 32 frontage which we're seeking a variance for for the overall area, this sign is located adjacent to the driveway as I described to you on the north end of Route 32, that's for 91.9 square feet, there's an additional freestanding sign located in the middle of the two driveways on Union Avenue and that sign does comply with your 64 square foot maximum area, that sign is only 60.1 square feet so we're seeking a variance for the signage.

MR. KANE: How far off of the road are those signs?

MR. MARTEL: Ten feet, I think ten feet in both cases.

MR. KANE: So in your estimation the poles for both of the signs no problem with visibility of vehicles?

MR. MARTEL: No problem with visibility, there will be I believe there's 8 to 9 feet above grade.

MR. KANE: With these two driveways over here there will be no problem with visibility?

MR. MARTEL: These two driveways no but the way the sign is oriented, it's a goal post sign, it doesn't start until you're about 8 feet above grade out of the line of vision for cars sitting approximately the height of 3 1/2 feet this sign will be several feet above where your eye position will be.

MR. KANE: Thank you.

MR. MARTEL: So the only thing is the 8 inch poles which obviously aren't enough of an obstruction to be concerned with. So the reasoning for the seeking the variance is of course that we're on a state highway, we do believe that it's in character with some of the other freestanding signs that the Town sees especially in the Vails Gate intersection down there with the four different driveways, there are two of those that are in the neighborhood of 80 square feet, so this is roughly in the neighborhood of those signs. In addition, we do need to advertise three separate items on our sign there's the Quick Chek Food Store, there's also the gas sales which of course we advertise our pricing and thirdly there's the car wash, so this I.D. sign 91 square feet is made up of basically advertising three different uses on site. My last note is just a total signage, keep in mind as I described to you briefly in the beginning the existing station or the existing facility has approximately 220 square feet of total signage which is inclusive of the wall signs and freestanding sign what we're proposing today is 210 square feet plus or minus so although we seek two



variances we will actually be reducing it to the total signage on site and we do feel that it is in the character of some of the other gas station facilities within the area.

MR. KANE: Thank you.

MR. KRIEGER: When you say in the character, you're saying they'll be no bigger than anybody else, no taller?

MR. MARTEL: Correct.

MR. KRIEGER: Than the signs already on the strip?

MR. MARTEL: Correct.

MR. GENESLAW: Just one or two points to conclude I'm sure it's fairly obvious in these times of high gas prices that a gas station has to advertise their pricing or else they won't get any customers, that's why you'll see the gas price posted, that's why some of the additional sign area is necessary. Also wanted to point out the drawing that we submit as part of the application package which you should have a copy of that's basically what's proposed. The only thing that's missing is the car wash panel down here which had not been designed at the time that this was submitted although we do have on the--

MR. KANE: But you're going to be looking similar to this with the Providian Bank on the bottom?

MR. GENESLAW: Right, that's the photograph basically the same panel but instead of Provident Bank it would be car wash, that's why we included that sign.

MR. MARTEL: There's of course black and white detail in the site plan package itself, so it wasn't submitted in the colorized version here but in the site plan

package it details reflective of the car wash.

MR. KANE: Okay.

MR. GENESLAW: We have our traffic engineer if there are any traffic questions. Mr. Martel did a pretty thorough job.

MR. MC DONALD: I'd like to hear him.

MR. DE PASQUALI: I'm Ray DePasquali, principle with Atlantic Traffic Engineers, Inc. We work very commonly with Bohler Engineering and Quick Chek throughout their facilities in New York and New Jersey so we have several different opportunities to get involved in this project. He's always tough to follow, Mr. Martel, because he's so good at what he does, he does half of my testimony for me, but if you can back up to the site plan drawing. Part of the discussion we wanted to have is the reasoning behind some of the discussions to keep the facilities away from one another, if we presumably have something to do with traffic calculation considerations in our particular case again re-orienting the board 32 running up and down on the sheet north and south Union Avenue running left and right across the bottom our two driveways on Union, one being restricted, one full movement, another full movement driveway the north end of our site on 32. Directly on the east side of 32 is where we have the proposed application for the Hess project. Now, if you recognize their orientation their site driveways they have site driveways in very close proximity from the signal, from what I can tell from the site plans, I don't have the transcripts but from what I can tell they haven't necessarily restricted the driveway movements themselves, I think in the old days it was common to see the curb cuts be placed in close proximity to the signals and that's what creates the driver conflict, the line of sight conflicts and certain elements to be almost confusing in some of

these older intersections, so you can see with our site layout we have maximized the separation distance we get from the traffic signal to obviously the more heavily traveled way is 32 and we have oriented our driveway as far as possible away from the intersection still maintaining the driveway on our property. This is consistent in keeping with what New York State DOT tells us in how they'd like to see the facilities oriented to our traffic signals, it makes good sense because of the existing driveways are being maintained on the Hess property of 125 feet of frontage, it's pretty tight and maybe not as open as our site. Certainly we've got a piece of property here that's some, is substantially larger, better frontage and so it allows us to provide an orientation that's maybe pretty unique for a gas station C store combination at signalized intersections. Why do they want to be close to each other, they want to be perceived as an area that you have these facilities available to you. Obviously down at Vails Gate, you know, you can get gas at any approach from any direction, whether you're coming and going and we're definitely creatures of habit in this society, these are definitely commute corridors when we talk about convenience movements and commute corridors we're a convenience food store, you recognize the pass-by trips, pass-by trips is a vehicle already on the highway system on 32 going north or out south or going east and west and it's going to stop, perform the convenience function that it's going to perform, come out and go on, continue on its same way in the most efficient effective manner possible. Recognizing that we're going to be servicing primarily those pass-by trip rates and the Institute of Transportation Engineers is pretty much our bible for statistics comes out around 70 percent, 66 percent in the evenings, 63 in the morning for what we call the pass-by trips. We found those numbers in New York and New Jersey area where we're heavily commute oriented to be up in the mid 80's, not uncommon for the peak hours. When we do our studies, we'll talk about the studies,

we talk about peak hours only so we're talking about the morning and the evening commute rush so we recognize that we're going to be capturing an awful lot of the southbound 32 percentages of vehicles coming down the highway right in, right out and continue on their way. Same with if we're coming up Union to the west we'll be making the right in, right out and as you're going eastbound on Union we oriented the two driveways because of the way it falls on the property the ability to have that extra long depth along the frontage and also to provide the option because we know there's a cuing condition along the eastbound movement on Union Avenue and actually the left turn bay as you approach signalized intersections and frankly it's probably not good practice to allow left turn movements across dedicated left turn bays you'll recognize there's a left turn bay as you're going south on 32, turn left onto Union, I know the project across the street has a driveway directly opposite the left turn bay, it's an existing condition, I think if it were a brand new condition, they would probably be doing an orientation more similar to what we have shown here. Again, this project having the luxury of a deeper and wider lot so in a lot of aspects the pass-by trip phenomenon is going to be serviced well by having stations on two different corners of a signalized intersection so we'll be capturing a lot of right-in right-out movements.

MR. KANE: You're feeling is that your, the majority of your customers are already traveling those roads?

MR. DEPASQUALI: Without a doubt, the vast majority, especially during the peak hours during non-peak hours, these facilities flow a lot more freely, you're familiar with what happens on 32 outside of commute peak hours especially true on Union with respect to why they orient themselves close to each other it's because you're as a driver anticipating that a certain movement can and can't be made or certain function can or cannot

be performed at a specific location along your commute corridor, that's what's going to develop in this area and I mean we have all at some point been familiar with the stopping point along our movement to or from work in order to perform our convenience moment and that's, that occurs on Saturdays as well, you don't go out of your way specifically to get your vehicle filled anymore, I mean, there's the ability to find these facilities along your commute corridor and along your typical travel path is really what we're looking to capture.

MR. GENESLAW: Do you foresee any traffic problems or issues by virtue of having the Quick Chek Food Store across from the proposed Hess gas station particularly in view of the permitted uses that could be developed on this property as of right?

MR. DEPASQUALI: No and in particular actually we have the ability to arrange our lot with this particular use to again provide the driveway separation that we show on our site plan, other types of uses like fast food stores, drive-thru banks with drive-thrus generate an awful lot of traffic, they don't typically capture, none of them capture the same amount of pass-by trips as our stores do, specifically banks, you know, you do make the specific trip to go to your bank because you have to go to your bank, it's a branded trip for you as opposed to a convenience store or a gas station where you don't have a branded trip necessarily most almost all of us have a specific bank that you have to attend to. So that's actually a trip that's not directly on your line of travel so they bring more trips, a sit-down restaurant, I mean, I can certainly fit that and a couple other facilities on this property and they're almost always destination trips rather than primary destination trips rather than pass-by trips. So in terms of looking at the facilities and the appropriate operation of this facility across the street from another what I would perceive as being more of a gas

station as these are as opposed to this testimony you heard before I don't see a problem with that at all especially given the configuration of our site plan design.

MR. GENESLAW: Thank you.

MR. KANE: Thank you. Board have any other questions?

MR. GENESLAW: I have no further witnesses at this point.

MR. KANE: Any questions? Okay, we're going to take it in three steps, we'll take a motion and then a vote on the area variance which basically either allows the station or not, then we'll take the freestanding, the additional freestanding sign and the wall sign.

MR. GENESLAW: Any need to reopen based on the additional testimony given?

MR. KRIEGER: Just to be safe you might as well.

MR. KANE: We'll do that, yeah, sure. We're going to reopen it to the public and see if you have any further questions at this point. Again, name, address or comments, just your name and address, sir.

MR. SURINSKY: Hi, my name is Dave Surinsky, you all know me from a couple weeks ago. I live right across the street from this and the more I look at it the more I like it. Number one, it's three good reasons why I like it, it's a nice clean operation, it looks better than what's there now. Number two, the community needs it, we don't have any nearby gas station or convenience stores at the moment and number three, the biggest reason that I think is a plus we're going to have the Hess Mart across the street, if there's just one place there you're going to have people coming from all four corners to go into the Hess Mart, if there's this place

across the street, people are going to have a choice and I think it's going to disperse the traffic and I think it's going to be a big plus. You're not going to have everybody going to Hess now, you're going to have the people maybe going south, going into this gas station, the people going north going into the other gas station I think there's going to be a lot less confusion and congestion so I think it's a big plus for the community.

MR. KANE: Thank you. Anybody else? Comments, anything?

MRS. ANTONELLI: I'm Jean Antonelli and I'm all for this project because I miss my, the availability of coffee, of gas and I think that the design is very good and I think they'll do more business than across the street, I think it's very well planned and I hope that you support them in their endeavors. Thank you.

MR. KANE: Anybody else? Okay, we'll close this public portion and bring it back to the board. Any questions?

MS. GANN: No.

MR. MC DONALD: No.

MR. KRIEGER: Okay, first of all as you should be aware this is referred to the County Planning Department and it received a disapproval back. I have reviewed the disapproval and it appears to address itself to the sign variances, it appears to be largely silent on the area of the area variance. So as normally what would be required in the event of a disapproval say in order to pass it over the disapproval would require four votes instead of three. In this particular case, I would, my own feeling is that it would require four votes as to the sign variances, not as to the area variance because of the way they have answered the or not answered the question, question we have referred to

them. The second thing that I want to mention is just to remind you in the case of an area variance what the statute and the cases require is a balancing in essence between the interest of the property owner and the health, safety and welfare of the community in general and the neighbors in particular so it's a balancing test and when you look at the normal criteria for an area variance, you should bear in mind that this is the requirement that's what they're looking for as you address yourself to those items.

MR. KANE: One thing I want to say so you follow what we did here we started off with an interpretation as to whether they were a gas station or not and we found them to yes be applicable to that rule so when everything here has to be done in an affirmative so you vote now, we're taking it and giving them an area variance, not disturbing that particular law that's on the books, okay.

MS. LOCEY: And the area variance deals with the 1,000 foot.

MR. KANE: That's correct and we're going to take that one separate.

MR. KRIEGER: These properties are 35, 30 feet apart.

MR. KANE: From the closest point to closest point so basically the gas station across the street if that's--

MR. BABCOCK: It's got to be 50 or 60 feet the right-of-way.

MR. KANE: Then you would get a variance.

MR. BABCOCK: I think, I don't think we're looking for a number, I think we're looking for relief from that section of the code that says it has to be 1,000 feet which is--



MR. KANE: So when you make your, when we make a motion, make a motion to relieve them of the 1,000 foot restriction and we won't put a number to it.

MR. BABCOCK: Section 300-269A.

MR. KANE: So I'll accept a motion on the area variance.

MS. LOCEY: I will offer a motion to grant the area variance as requested by the application of Quick Chek Food Stores relative to code Section 300-26A as it relates to the 1,000 foot spacing between gasoline facilities and/or stations.

MR. BROWN: Second it.

ROLL CALL

MS. GANN	AYE
MS. LOCEY	AYE
MR. BROWN	AYE
MR. KANE	AYE

MR. MC DONALD: I still have a few questions like everybody else with the Union Avenue and 32, you know, we have a real problem but I, with the presentation they gave I have to vote yes.

MR. KANE: Next would be the sign variances, one additional freestanding sign with a request for 27.9 square foot variance and then wall sign request for 45 square foot variance also.

MR. MC DONALD: I'll make the motion that we grant the variances for the freestanding sign and for the wall sign.

MS. GANN: Second the motion.

September 26, 2005

72

ROLL CALL

MS. GANN	AYE
MS. LOCEY	AYE
MR. BROWN	AYE
MR. MC DONALD	AYE
MR. KANE	AYE

MR. KANE: Motion to adjourn?

MR. MC DONALD: So moved.

MS. LOCEY: Second it.

ROLL CALL

MS. GANN	AYE
MS. LOCEY	AYE
MR. BROWN	AYE
MR. MC DONALD	AYE
MR. KANE	AYE

Respectfully Submitted By:

Frances Roth  
Stenographer

QUICK\_CHEK\_FOOD\_STORES\_(05-54)

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MR. KANE: Request for interpretation of code Section 300-26(A) relative to 1000 ft. spacing between gasoline facilities/stations. As per bulk tables this application is for convenience store with gasoline sales, freestanding sign, request for 27.9 square foot for sign, wall sign, request for 45 square foot for wall sign all at corner of Route 32 and Union Avenue.

MR. GENESLAW: I'm Howard D. Geneslaw from the firm of Gibbons, Del Deo, Dolan, Griffinger & Vecchione, we're representing Quick Chek Food Stores.

MR. KRIEGER: Just so the board is aware, Mr. Geneslaw and I have been in contact previous, have discussed certain aspects of this application. I'm sorry, go ahead.

MR. GENESLAW: Thank you. Just by way of a quick summary, the proposal here is for a convenient food store which also sells gas and has an associated car wash and we're here for two purposes really. The first has to do with an interpretation of Section 300-26(A) of the code which talks about there being a prohibition against facilities that sell gasoline within 1,000 feet of other gasoline facilities. Now, the way the definitions of the code read we believe that in fact this does not apply because of the way gasoline stations are defined, it talks about gasoline stations and repair garages. We clearly don't perform repairs. And if you look at the definition of gasoline station in the code, it also contemplates a facility that performs repairs. So we're seeking an interpretation that that section does not apply and in the event the board determines otherwise, then we're seeking a variance from the thousand foot restriction and separately we're also seeking two sign variances, one for freestanding sign which will be located on Route 32 and the other for a wall mounted sign located on the

front of the building. Procedurally we're also looking for a 239 referral to the county being we're on a state highway as well as a county road and as I discussed with Mr. Krieger, the planning board has for SEQRA purposes circulated a lead agency letter to all involved agencies, other than the ZBA, with the expectation that the ZBA would perform its own uncoordinated review so we will be looking for a negative declaration. I have with me representative from Quick Chek as well as the site engineer and our traffic engineer if there should be any questions. And I certainly will be glad to give you anymore information that I can provide.

MR. MC DONALD: I like the sign with \$1.29 gas.

MR. GENESLAW: I guess those exhibits were probably prepared a year or two ago when gas was slightly more affordable.

MR. KANE: Let's jump right over to the signs, freestanding sign request for 27.9 square feet, how big is the sign going to be, do you have any examples of the sign?

MR. GENESLAW: The sign is a total of 91.9 square feet and looking at the materials that we submitted there are actually two photographic depictions of what it would look like, the forward back of your materials there's a schematic and this shows the sign without the car wash panel at the bottom, what's shown here is 80 square feet. What we're proposing would have the car wash panel down at the bottom which brings us to 91.9 and there's separately in your materials a photograph of another store, this is an existing Quick Chek which is located in Hazlet, New Jersey and this is the actual sign except instead of having a panel for a bank at the bottom, the panel here would be for a car wash. Other than that though it's essentially the same sign. So you can see a picture of one in real life and also the

schematic drawing of what it would look like.

MR. KANE: I was going to say on the freestanding sign we're just going for square feet, there's not going to be any questions about height?

MR. MARTELL: No, the maximum height would be 15 feet per code, that's what's being proposed.

MS. GANN: What's the location of the sign, it will be on Union?

MR. MARTELL: Quick introduction, Jeff Martell from Bohler Engineering, design engineer, it's actually the sign in question is actually located at the entrance of state highway Route 32, it will be on the southern side, it's kind of difficult to see but where this dark tree is right in here there's a small planting bed around the sign, it will be located right in the middle of that.

MR. KANE: Are you going to have both entrance and exit from all of the entrances to the property all three?

MR. MARTELL: The driveway previously described on Route 32 would be a full movement driveway, the western most driveway on county Route 69 Union Avenue would be full movements, the eastern most driveway would not be permitted to make a left exit out of the site so it, so you would be allowed to make a left in as well as a right in and right out, there'd be, you'd be restricted from making the left movement, that's signed as well as where a mountable curb cut island there to restrict.

MR. REIS: Have these ingress egress, has that been approved by the planning board?

MR. GENESLAW: We went to the planning board for the initial appearance, they referred us here for the variances. Once we're assuming the variances are

approved we'll then go back to the planning board to continue a site plan review, so they have looked at the plan, they haven't actually approved the plan at this point.

MR. MARTELL: In addition to that, the county has reviewed the movements on their road, actually issued a review letter that I believe would have been sent to the Town, they did not have any comments in regards to the access. They did of course mention the 1,000 foot radius but they didn't mention anything as far as the access and the driveway on Route 32 will also be reviewed by the state DOT but we have not received comment based on that.

MR. KANE: Now the wall sign, cover that next please.

MR. GENESLAW: Sure, the wall sign is also shown in a schematic drawing which is the materials that were submitted, this indicates the wall sign that's being proposed which would be located in the front of the building is proposed at 70 square feet. Whereas 25 is permitted so the variance that we're looking for would be for the difference or 45 square feet.

MR. KANE: Is that building facing towards Route 32?

MR. MARTELL: Correct.

MR. KANE: How many feet off the road is the building?

MR. MARTELL: The building is off the front yard, it's 73 feet would be to the canopy actually probably be an additional 60 feet plus or minus, so Route 32 is plus or minus 130 feet from county Route 69, it's plus or minus 100 feet.

MR. KANE: Is the sign going to be illuminated?

MR. MARTELL: Yes, it will be illuminated.

MR. KANE: Interior, non-flashing?

MR. MARTELL: Correct.

MR. MARTELL: Just to point out ideas that Quick Chek of course reviewed was the possibility of putting an additional sign on the side of the building which they are accustomed to doing which would be a side of course facing county Route 69, they have elected not to do so in this case, just strictly went with the primary tower in the front that has the signage, big green area which of course that area is associated with the bump out you'll see in the building, this small little rectangular bump out, that's the green tower that I described the sign would be set up on that.

MR. REIS: Quick Chek hold title to this property at this time?

MR. GENESLAW: No, they are the contract purchaser of the property.

MR. KANE: Okay, that leaves the interpretation, okay, so explain to me why you feel that you don't fit into their definition of gas facilities.

MR. GENESLAW: Sure, if you look at Section 26 (A) of the zoning code, it says that no gasoline station shall be permitted within 1,000 feet of any other gasoline facility fronting on the same street. There's a facility across the street which is formally I believe a Sunoco and is currently seeking approvals to develop a Hess gas station with associated convenient store. So if you then look at the definitions keeping in mind that 26 (A) applies only to gasoline stations and repair garages, you'll see that the term repair garage is not defined in the codes, pretty obviously contemplates the repair of vehicles, being that this is a convenience food store that sells fuel and is a car

wash, does not engage in repair of vehicles, so clearly would not be a repair garage. And then if you look at the definition of gasoline station that term is defined as building or other structure or a tract of land used or heretofore used primarily for the servicing of motor vehicles and again servicing of motor vehicles is not something that's being proposed here.

MR. KRIEGER: Is that definition of gasoline station or is it the definition of another term?

MR. GENESLAW: That's the definition of gasoline service station, the term gasoline station does not actually appear in your code, the closest term that appears and is defined is the word gasoline service station.

MR. KRIEGER: Close but it's not the same.

MR. GENESLAW: In 26 (A) it uses the term gasoline station and gasoline facility also not defined and it seemed to us looking at the code as though it was probably intended to deal with your older facilities that were engaged in repairs and not the kind of modern mixed use facility that is really more of a retail type of facility.

MR. KRIEGER: Doesn't the code also provide and I quote exactly a gasoline station may include a convenient store which customarily sells retail products and food including deli, bakery, franchise fast food as an ancillary use, is that in the code as well?

MS. GENESLAW: The code does permit special, permit convenient stores that also sell gas, that's true, but in Section 26 (A) it doesn't mention convenient stores that sell gas, just mentions gasoline.

MR. KRIEGER: The language I quoted is from 26 (A) is it not the last sentence gasoline station may include,



it's in 26 that says it can include a convenient store, so why is this gasoline station and convenient store different than the gasoline station and convenient store that's contemplated in 26 (A) and it says so that it includes a convenient store, why is this different?

MR. GENESLAW: Well, if you look in the special permit table it talks about convenient stores being a special permit use and it talks about them also being permitted to sell gas, that special permit use is not referenced in 26 (A) and so it seems to us and to the planning board that at least there was enough of an ambiguity in the code that the Zoning Board of Appeals should make an interpretation and in the event that the board of appeals doesn't agree with our position and in fact determines that it does apply we seek an area variance from that requirement.

MR. KRIEGER: The application there should reflect the fact that they're applying for both an interpretation and area variance in the alternative just in case they fail on the interpretation so they don't have to come back again.

MR. KANE: Okay, Mike, can we get that added in?

MR. BABCOCK: Absolutely should be there, Mr. Chairman, I don't have that file but if it's not there we'll correct that tomorrow.

MR. GENESLAW: It was noted in the referral from the planning board so just can be taken from there.

MR. KRIEGER: I just wanted to make sure all the paperwork is consistent, I just want to--

MR. GENESLAW: I appreciate that, thank you.

MR. KANE: No sense getting into that debate now because that's what it comes down to the

interpretation. Any other questions from the board at this point?

MS. GANN: No questions.

MR. KANE: I'll accept a motion to set up for a public hearing.

MR. REIS: Excuse me, Mr. Chairman, we're going to set them up for a public hearing for an interpretation.

MR. KANE: And/or a variance for the thousand foot rule and they're still coming in for a variance on the two signs so they're asking for an interpretation on the thousand foot rule, if the interpretation is declined then they'd like a variance of that thousand foot to put the gas station in.

MR. REIS: Okay, would it make sense, I don't know if there's a, to vote on the interpretation now?

MR. KANE: Can't, has to be done at a public hearing.

MR. KRIEGER: Everything has to be done at a public hearing.

MR. KANE: That's why we do the prelim so that everybody has a chance to get enough information instead of coming in cold, not so much the businesses but the homeowners come in without the right stuff, they can't come back for six months if they're turned down, it makes sense to have the prelim so everything has to be done in a public.

MR. REIS: Very good, all right, accept a motion?

MR. KANE: Yes.

MR. REIS: I will make a motion that we set up Quick Chek Food Stores for a public hearing for

interpretation and/or an area variance of their 1,000 foot space in between gasoline facilities, stations, also for freestanding sign request for 27.9 square foot and wall sign request for 45 square foot for wall sign.

MR. MC DONALD: Second the motion.

ROLL CALL

MS. GANN	AYE
MR. MC DONALD	AYE
MR. REIS	AYE
MR. KANE	AYE

MR. GENESLAW: What's the timing procedure for the 239 referral, will that be going out now so comments might be back in time for the hearing?

MR. KRIEGER: Yes, should go out, we haven't done it with the zoning board, done it with the planning board, yes, but they should advise by letter.

MR. KANE: Handle it all at the public, it will be done at the public.

MR. KRIEGER: In the event that the public hearing occurs before the expiration of the 30 day time period 239 then any decision that the Zoning Board of Appeals makes that night will be stayed until the expiration of the 30 days. And in the event that the county came back and said we want to, we have something to say in the unlikely event that they came back and said that then the Zoning Board of Appeals would have to reopen the hearing for that purpose if they come back and in accordance with their usual practice there'd be nothing to reopen.

MR. GENESLAW: Do you need any additional copies of the application materials for purposes of referring to the county?

August 22, 2005

38

MR. KANE: I would like one.

MR. GENESLAW: Okay, I'll send it in to Myra. Thank you.

ZBA REFERRALS

QUICK CHEK SERVICE STATION (05-16)

Howard D. Geneslaw, Esq. appeared before the board for this proposal.

MR. PETRO: Proposed Quick Chek, application is for the development of the convenient store and gas sales at the corner of Union Avenue and Route 32. Store also has 16 food sales seating, the plan was reviewed on a concept basis only. Convenient store with gasoline sales is a special use permit of the NC zoning district and there are several code issues which will require action from the Zoning Board of Appeals. Just one minute before you start. The 16 seats for seating, is that in the last application?

MR. GENESLAW: Howard Geneslaw from the law firm of Gibbons, Del Deo, Dolan, Griffinger & Vecchion appearing tonight on behalf of Quick Chek food stores. Quick Chek is a chain of convenient stores in New Jersey, they have 107 stores, they are now starting a significant expansion into New York State. This is actually the second of their stores in New York to go into the permitting process. When we attended the work session, this is the same plan that we presented, it indicated the 16 seats, we submitted the floor plan, the seats are for customers who come in, get coffee, sandwich, might want to sit down for a while.

MR. PETRO: The reason I asked you about the seats, the parking calculations then on the entire site, have you taken into consideration the 16 seats?

MR. GENESLAW: I discussed that with Mr. Edsall this morning, the plan as submitted did not provide a separate, it's about 5 1/2, there are enough parking spaces on the site to accommodate for the seating. So when we resubmit, when we come back for a site plan and

special permit we'll show one per 3 for the 16 seats and we'll cover that area out from the overall retail, it will still be compliant.

MR. PETRO: Okay, let's see, well, we're not going to go over the site plan a lot tonight because obviously you need some variances, they're all listed on your sheet which Mark had gone over, I think the number one issue is going to be is it 1,000 feet, Mark?

MR. EDSALL: Yes.

MR. PETRO: That you're within 1,000 feet of another service station and we're going to need some clarification from the zoning board as to whether or not you're going to actually be permitted to go there because you're within 1,000 feet. I don't believe that this board has a problem with that, I think that we just need to be set in the right path with the zoning board how they're going to do that. Frankly, I'm not sure, they'll either have to come up with interpretation, a variance and/or a referral to the Town Board for modification to the law because I believe that when that law was written probably 30 years ago, it may not have this type of, to me this is not a filling station, this is far superior or much different, whatever word you want to use than a filling station. So I don't know if that law to me may be a little antiquated because, you know, I grew up in Ducktoun and you only had Freddy Thompson's garage over there, this is not Freddy Thompson's garage, this is something a little more sophisticated and done differently, we're going to refer you to the zoning board and they'll come up with a way that if you're successful, you can come before this board again and at that time we'll go further with the site plan, I think that's the way we're going to do that. Mark, correct me if I'm wrong, you want to speak?

MR. EDSALL: Before we go on, there was five items

listed in my comment sheet, since I prepared the sheet, I had the opportunity to talk to Mike Babcock, the Code Enforcement Officer and relative to the referral or the item for Section 300-50, Subsection O about the signs, Mike has advised me that that exemption applies to canopy and pump signs no matter what use group they're under, if it's a pump, it applies, if it's a canopy, it applies, so he doesn't need to be part of the referral and I won't include it. On the menu board which is really just gives a customer the opportunity when they go to the car wash as to cost and services, that's something though when you would go into a fast food when there's a menu for drive-thru, Mike indicates that that by no means is a freestanding sign in the ordinance so that doesn't need to be part of the referral, that will be just something considered on site plan if it's a reasonable size for the board's consideration it will be part of your approval or consideration in the future so I'll be deleting those two bullet items under number one.

MR. PETRO: I'm just going to say necessary variances.

MR. EDSALL: Or interpretations.

MR. PETRO: These gentlemen yourselves can figure that out, no sense--

MR. EDSALL: I just wanted the record to be clear, we've gotten an interpretation or not interpretation but a decision on those two from the code enforcement officer.

MR. PETRO: I think the way we're going to do it which is something a little different than we've been doing it, we're going to say that your plan is inadequate at this time.

MR. EDSALL: Incomplete.

MR. PETRO: For us to review because you do need the necessary variances, so I'm going to do a roll call and we'll vote to send you to the zoning board instead of a denial that we normally do, I guess somebody called and so it made sense, I think that's what we're going to do. Is there anything about the site plan that you want to talk about at this time just briefly that you want to get any other input from the members?

MR. GENESLAW: We can give you a quick overview, we'd simply like to get a sense from the board of the overall layout of the site is something that the board is receptive to so that when we get our variances we can come back here and hopefully not need to return to the zoning board for any plan changes.

MR. PETRO: I would suggest that you do it all at one time if you're going to need a sign variance, if you're going to need height variances, anything that you need I'm sure I'm repeating something that you know probably better than I do but do it all at one time, you don't want to come here and find that you're short two foot on the height variance and have to go back and do it again, that would be a real waste of time.

MR. GENESLAW: This we can get, if we can get a sense that the board is, if we can get a consensus.

MR. PETRO: I've seen it with the owner of the property, I don't have a problem with it myself, I'd poll the board, see if anybody has a conceptual problem, I don't think they do. Does anybody? Seems to fit on the property, I think the basic thing that we need to find out is if by law if you can get it there and you have to do that at the zoning board, not here. If you, if you're looking for a positive recommendation to the zoning board from this board, I don't think that they'd have a problem doing that.

MR. GENESLAW: We would appreciate that.



MR. PETRO: Because again to me what I have always said if the planning board and the members are with me, support me if it's a permitted use in the zone and the law says it's going there, that's what we look at, we don't say yes or no but how and the zoning board may look differently than that. But as far as we're concerned, does anybody disagree that we can send with a positive recommendation?

MR. ARGENIO: I agree but I have one additional comment second to Five Corners this is probably one of the busiest intersections in the Town and the corner across the street the RPA folks, Patriot Ridge, we had them do a nice little paver area with a sitting area, they dolled it up nice the corner there. Now I'm not saying that you will be compelled to do that but I think we'd like to have and I don't want to speak for everybody on doing something a little special and unique in that dark green area that you have there because your grades, your building and your filling station according to the grading plan is going to lay a little higher than the roadway and when the people are going south on 32 and look to the right when they get to the intersection they should be looking at something nice, not that a tenth of an acre of grass is not nice but something a little better than a tenth of an acre of grass.

MR. GENESLAW: We'll revise the plans, thank you.

MR. PETRO: I need a motion.

MR. EDSALL: A motion to deem the application incomplete because it needs variances or interpretations and refer it to the Zoning Board.

MR. PETRO: Should we do lead agency coordination letter?

MR. EDSALL: Why don't you get the referral out of the way and we'll talk about SEQRA.

MR. PETRO: I need a motion.

MR. ARGENIO: I'll make a motion that we determine this plan is incomplete and they need to be referred to zoning for the necessary variances.

MR. SCHLESINGER: I will second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board deem this plan for Quick Chek food stores site plan incomplete and send them to the zoning board for the necessary variances. Any further discussion? If not, roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. KARNAVEZOS	AYE
MR. MASON	AYE
MR. ARGENIO	AYE
MR. PETRO	AYE

MR. PETRO: At this time, you have been referred to the New Windsor Zoning Board for your necessary variances. If you are successful in receiving those variances, you can once again reappear before this board and we'll review it as a site plan formally. I would send you on your way but let's find out what Mark has to say.

MR. EDSALL: Does the board have any suggestions with my working with the applicant's attorney on beginning the SEQRA process because there are other agencies involved such as DOT and Orange County DPW so we can get the circulation out and also the referral to the Orange County Department of Planning.

MR. PETRO: Motion for lead agency coordination letter

getting started.

MR. ARGENIO: So moved.

MR. SCHLESINGER: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board issue a, authorize the issuance of a lead agency coordination letter from the Quick Chek site plan on Route 32 and Union Avenue. Any further discussion from the board members? If not, roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. KARNAVEZOS	AYE
MR. MASON	AYE
MR. ARGENIO	AYE
MR. PETRO	AYE

MR. PETRO: We'll get it out to OCPD, don't need a motion?

MR. EDSALL: No, I'll just take care of that if it's okay.

MR. PETRO: Thank you for coming in.

MR. GENESLAW: Thank you very much.



## COUNTY OF ORANGE

EDWARD A. DIANA  
COUNTY EXECUTIVE

## DEPARTMENT OF PLANNING

124 MAIN STREET  
GOSHEN, NEW YORK 10924-2124  
TEL: (845)291-2318 FAX: (845)291-2533  
www.orangecountygov.com  
planning@co.orange.ny.us

DAVID E. CHURCH, AICP  
COMMISSIONER

### ORANGE COUNTY DEPARTMENT OF PLANNING 239 L, M OR N REPORT

This proposed action is being reviewed as an aid in coordinating such action between and among governmental agencies by bringing pertinent inter-community and countywide considerations to the attention of the municipal agency having jurisdiction.

Referred by: New Windsor Zoning Board (local file 05-54)

Reference No: NWT 13-05M  
Parcel I.D.: 12-1-49

Applicant: Quick Chek Food Stores

Proposed Action: Area Variances & Interpretation

State, County, Inter-municipal Basis for Review: Within 500 ft NYS Rte 32 (Windsor HWY) & CO Rt 69

**Comments:** As specified in Town Law §267 (b), in making its determination to grant area variances, the Zoning Board should consider whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance; whether the requested area variance is substantial; whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.

According to § 300-26 A, "No gasoline station shall be permitted within 1,000 ft of any other gasoline facility fronting the same street." It further states, "a gasoline station may include a convenience store which customarily sells retail products and food, including deli, bakery and franchise fast food, as an ancillary use." The Department's interpretation of the Quick Chek operation is that it is a gasoline station, which will be locating 1,000 feet of another gasoline facility.

Addressing the need for visibility, the property is located at the intersection of both a county & a state road, and is considered as a standalone establishment. As a single retail outlet, it will not be competing with other stores within the same complex. The plans indicate a total of six entrance & exit signs, which viewed in the presented exhibits will display the Quick Chek moniker; 4 are proposed for County Highway 69 & 2 for State Route 32. Other proposed signs include a 60.1 sf free-standing sign on County 69, two 24 sf signs for the canopy, and the Car Wash will also have a sign.

The Neighborhood Commercial Zone has been designated for local convenience to serve the adjacent neighborhoods, obviating the requirement for frequent trips to the larger general commercial facilities. The scale of the signs should be appropriate, and to scale, for this neighborhood commercial establishment. Although the applicant has offered several reasons for the requested variance, such as being the standard corporate sign it, or increasing corporate visibility, the Board should consider the intent of the Neighborhood Commercial Zone

Reviews and Permits: Health Dept.; County DPW; & NYS DOT

County Recommended Action: Local Determination

Disapproved

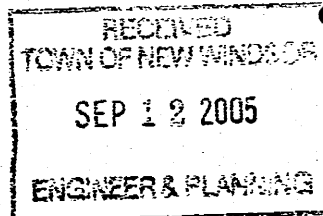
Approved

The size of the signs is precedent setting, and the request is substantial given the Neighborhood Commercial Zone designation.

Date: September 8, 2005

Reviewed By: Kathy V. Murphy, Planner

  
David E. Church, AICP  
Commissioner of Planning





RESULTS OF Z.B.A. MEETING OF:

September, 2005PROJECT: Quick Check Food StoresZBA # 05-54

P.B.# \_\_\_\_\_

USE VARIANCE:

NEED: EAF \_\_\_\_\_

PROXY \_\_\_\_\_



LEAD AGENCY: M) \_\_\_\_\_ S) \_\_\_\_\_ VOTE: A \_\_\_\_\_ N \_\_\_\_\_

GANN \_\_\_\_\_

LOCEY \_\_\_\_\_

BROWN \_\_\_\_\_

MCDONALD \_\_\_\_\_

REIS \_\_\_\_\_

KANE \_\_\_\_\_

CARRIED: Y \_\_\_\_\_ N \_\_\_\_\_

PUBLIC HEARING: M) \_\_\_\_\_ S) \_\_\_\_\_ VOTE: A \_\_\_\_\_ N \_\_\_\_\_

GANN \_\_\_\_\_

LOCEY \_\_\_\_\_

BROWN \_\_\_\_\_

MCDONALD \_\_\_\_\_

REIS \_\_\_\_\_

KANE \_\_\_\_\_

CARRIED: Y \_\_\_\_\_ N \_\_\_\_\_

NEGATIVE DEC: M) L S) B VOTE: A 5 NOGANN ALOCEY ABROWN AMCDONALD AREIS AKANE ACARRIED: Y ✓ N \_\_\_\_\_

APPROVED: M) \_\_\_\_\_ S) \_\_\_\_\_ VOTE: A \_\_\_\_\_ N \_\_\_\_\_

GANN \_\_\_\_\_

LOCEY \_\_\_\_\_

BROWN \_\_\_\_\_

MCDONALD \_\_\_\_\_

REIS \_\_\_\_\_

KANE \_\_\_\_\_

CARRIED: Y \_\_\_\_\_ N \_\_\_\_\_

## ALL VARIANCES - PRELIMINARY APPEARANCE:

SCHEDULE PUBLIC HEARING:

M) \_\_\_\_\_ S) \_\_\_\_\_

VOTE: A \_\_\_\_\_ N \_\_\_\_\_

GANN \_\_\_\_\_

LOCEY \_\_\_\_\_

BROWN \_\_\_\_\_

MCDONALD \_\_\_\_\_

REIS \_\_\_\_\_

KANE \_\_\_\_\_

CARRIED: Y \_\_\_\_\_ N \_\_\_\_\_

PUBLIC HEARING:

STATEMENT OF MAILING READ INTO MINUTES \_\_\_\_\_

VARIANCE APPROVED:

M) \_\_\_\_\_ S) \_\_\_\_\_ VOTE: A \_\_\_\_\_ N \_\_\_\_\_

GANN ALOCEY ABROWN AMC DONALD AREIS AKANE A

Interpretation:

Area Variance

Signs: Freestanding

CARRIED: Y ✓ N \_\_\_\_\_① L ⑤ K① L ⑤ B① Mc ⑤ G① Wall ⑤ ✓

5 ayes 0 nays

5 ayes 0 nays

5 ayes 0 nays

5 ayes 0 nays

Interpretation and/or Area Variance

Frank Antonelli will lease the property to Quick Check  
Robert Valerio - of Quick Check

public utilities or municipal or other governmental agencies or for the public health, safety or general welfare.

**EXTERIOR ARCHITECTURAL FEATURE** — The architectural style and general arrangement of such portion of the exterior of a structure as is designed to be open to view from a public way, including the kind, color and texture of building materials and the types of all windows, doors, lights, signs and other fixtures appurtenant to such portion.

**FAMILY** — One or more persons occupying a dwelling unit as a single, nonprofit housekeeping unit, who are living together as a bona fide stable and committed living unit, being a traditional family unit or the functional equivalent thereof, exhibiting the generic character of a traditional family.<sup>73</sup>

**FLOOR AREA** — The sum of the gross horizontal areas of the several floors of the building or buildings on a lot measured from the exterior faces of exterior walls or from the center line of party walls separating two buildings, excluding cellar and basement areas used only for storage or for the operation and maintenance of the building.

**FLOOR AREA, LIVABLE** — All spaces within the exterior walls of a dwelling unit exclusive of garages, breezeways, unheated porches, cellars, heater rooms and basements having a window area of less than 10% of the square-foot area of the room. Usable floor area shall include all spaces not otherwise excluded above, such as principal rooms, utility rooms, bathrooms, all closets and hallways opening directly into any room within the dwelling unit and all attic space having a clear height of six feet from finished floor level to the pitch of roof rafters, with a clear height of seven feet six inches from finished floor level to ceiling level over 50% of the area of such attic space.

**FLOOR AREA RATIO** — The floor area in square feet of all buildings on a lot divided by the area of such lot in square feet.

**GARAGE, PRIVATE** — An enclosed space for the storage of one or more motor vehicles, provided that no business, occupation or service is conducted for profit therein nor space therein for more than one car is leased to a nonresident of the premises.

**GARAGE, REPAIR** — Any garage, other than a private garage, available to the public, operated for gain and which is used for the storage, repair, rental, greasing, washing, servicing, adjusting or equipping of automobiles or other motor vehicles.

**GASOLINE SERVICE STATION** — A building or other structure or a tract of land used or heretofore used primarily for the servicing of motor vehicles. It shall signify a retail place of business engaged primarily in the sale of motor fuels, and also in supplying goods and services generally required in the operation and maintenance of motor vehicles, including the sale of petroleum products; sale and servicing of tires, batteries, automotive accessories and replacement items; washing and lubrication services; and the performance of routine automotive maintenance and repairs.

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73. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- G. No loudspeaker or amplifying device shall be permitted which can be heard beyond the bounds of the property or lot where said pool is located.<sup>20</sup>
- H. No swimming pool shall be filled or used until the foregoing requirements shall have been certified as met by the Code Enforcement Officer. [Amended 4-7-1999 by L.L. No. 2-1999]

**§ 300-25. Home professional offices.** [Amended 10-20-1976 by L.L. No. 3-1976; 11-20-1996 by L.L. No. 7-1996; 4-7-1999 by L.L. No. 2-1999]

The home professional office (subject to special permit of the Planning Board) or studio of an architect, artist, chiropractor, dentist, engineer, insurance broker, lawyer, musician, optometrist, teacher, physician, real estate broker and veterinarian shall be permitted, provided that:

- A. Such office or studio is incidental to the residential use of the premises and is carried on by the resident thereof. There shall be a conclusive presumption that such office or studio use is not incidental to the residential use of the premises if client, patient, student or customer contact usage of such office or studio by the resident professional exceeds eight hours per day.
- B. Such professional office or studio use must be carried on personally by a resident of the dwelling.
- C. Studios where instruction is offered to a group in excess of four pupils at one time, or where concerts, recitals or exhibitions are held, are prohibited.
- D. The keeping or boarding of any dogs by a veterinarian shall require approval of the Planning Board in accordance with § 300-22.

**§ 300-26. Gasoline stations and repair garages.** [Amended 11-20-1996 by L.L. No. 7-1996; 4-7-1999 by L.L. No. 2-1999]

- A. By special permit of the Planning Board, gasoline stations and repair garages are permitted, provided that no plot line of any station shall be closer than 200 feet to a school, playground, church, hospital, library or institution for the elderly or children. No gasoline station shall be permitted within 1,000 feet of any other gasoline facility fronting in the same street. A gasoline station may include a convenience store which customarily sells retail products and food, including deli, bakery and franchise fast food, as an ancillary use.
- B. Ingress and egress.
  - (1) Ingress and egress points for gasoline service facilities shall be located a minimum of 70 feet from the intersection of right-of-way lines on a Town road and shall comply with requirements with respect to state, county or Town roads.

<sup>20</sup> Editor's Note: Original § 48-21G(8), regarding protective planting strips, which immediately followed this subsection, was repealed 4-7-1999 by L.L. No. 2-1999.

# NEW WINDSOR CODE

## Table of Use/Bulk Regulations Neighborhood Commercial (NC)

Town of New Windsor

### Part 2

[Added 3-5-1986 by L.L. No. 1-1986; amended 4-7-1999 by L.L. No. 2-1999; 10-3-2001 by L.L. No. 4-2001;  
7-3-2002 by L.L. No. 5-2002; at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

	A	B	C	D	E	F	G	H	I	J	K	L
	Uses Permitted by Right	Uses by Special Permit of the Planning Board	Minimum Lot Area (square feet unless otherwise designated)	Minimum Lot Width (feet)	Required Front Yard Depth (feet)	Required Side Yard/ Total Both Yards (feet)	Required Rear Yard Depth (feet)	Required Street Frontage (feet)	Maximum Building Height (feet)	Floor Area Ratio	Minimum Livable Floor Area (square feet)	Developmental Coverage (percentage)
8	Service establishments furnishing consumer services but excluding gasoline stations and new and used motor vehicle sales, storage, repair or service. <sup>1</sup>		10,000	100	40	15/35	15	N/A	35	1	N/A	20
9	Clubs, such as fraternal, social, political, etc. <sup>1</sup>											
10	Mini warehouses. <sup>1</sup>											
		6. Private schools and colleges and other educational institutions, other than trade and technical schools. <sup>1</sup>	20 acres	300	100	100/200	100	100	50	N/A	N/A	20
		7. Gasoline stations, including convenience stores which sell gas, service repair garages, car wash and car rental facilities. <sup>1</sup>	15,000	125	40	15/30	15		23	0.5	N/A	85

#### Notes:

<sup>1</sup> Site plan approval by Planning Board required; refer to use regulations.

<sup>2</sup> Special permit by the Town Board required.

<sup>3</sup> Subject to expansion by the Planning Board in connection with site plan approval.



**TOWN OF NEW WINDSOR  
ZONING BOARD OF APPEALS  
OFFICE  
845-563-4615**

**MEMORANDUM**

**TO: LARRY REIS, COMPTROLLER**  
**FROM: MYRA MASON, SECRETARY TO THE ZONING BOARD**  
**DATE: 10/24/05**  
**SUBJECT: ESCROW REFUND**

**PLEASE ISSUE A CHECK IN THE AMOUNT OF \$ 103.08 TO CLOSE OUT  
ESCROW FOR:**

**ZBA FILE #05-54**

**NAME & ADDRESS:**

**Quick Chek Food Stores, Inc.  
P.O. Box 600  
Whitehouse Station, NJ 08889**

**THANK YOU,**

**MYRA**

**L.R.10/24/05**



**TOWN OF NEW WINDSOR  
ZONING BOARD OF APPEALS  
RECORD OF CHARGES & PAYMENTS**



FILE #05-54

TYPE:INTERPRETATION

TELEPHONE:

908-534-7156

**APPLICANT:**

Quick Chek Food Stores, Inc.

P.O. Box 600

Whitehouse Station, NJ 08889

RESIDENTIAL: \$ 50.00  
COMMERCIAL \$ 150.00  
INTERPRETATION \$ 150.00

CHECK # \_\_\_\_\_  
CHECK # 65356  
CHECK # \_\_\_\_\_

ESCROW: COMMERCIAL \$500.00

CHECK # 65357



**DISBURSEMENTS:**

**MINUTES ATTORNEY  
\$5.50 / PAGE FEE**

PRELIMINARY:	<u>10</u>	PAGES	<u>\$55.00</u>	<u>\$35.00</u>
2 <sup>ND</sup> PRELIMINARY:	—	PAGES	<u>\$</u>	<u>\$</u>
PUBLIC HEARING:	<u>38</u>	PAGES	<u>\$209.00</u>	<u>\$35.00</u>
PUBLIC HEARING:	—	PAGES	<u>\$</u>	<u>\$</u>

LEGAL AD: Publish Date:9/10/05

\$62.92

**TOTAL: \$326.92 \$70.00**



ESCROW POSTED: \$ 500.00  
LESS: DISBURSEMENTS: \$396.92

AMOUNT DUE: \$ \_\_\_\_\_

REFUND DUE: \$103.08

Cc:

L.R. 10/24/05

**OFFICE OF THE PLANNING BOARD  
TOWN OF NEW WINDSOR  
ORANGE COUNTY, NY**

**NOTICE OF DISAPPROVAL OF PLANNING BOARD APPLICATION**

PLANNING BOARD FILE NUMBER: 05-16

DATE: 7/21/05

APPLICANT:

**Quick Chek Food Stores, Inc., 3 Old Highway 28, P.O. Box 600, Whitehouse Station, NJ 08889**

PLEASE TAKE NOTICE THAT YOUR APPLICATION:

DATED: 5/19/05

FOR: SITE PLAN

LOCATED AT: NYS Route 32 & Union Avenue

ZONE: NC

DESCRIPTION OF EXISTING SITE: SEC: 12 BLOCK: 1 LOT: 49

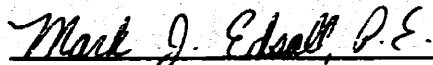
IS DISAPPROVED ON THE FOLLOWING GROUNDS:

**Interpretation and/or Variances Required for Code Section 300-26(A) relative to 1000 ft. spacing between "gasoline facilities/stations". As per bulk tables, this application is for a "convenience store with gasoline sales" (use B-7).**

**Variance for sign area for free standing sign on Route 32 (91.9 sf vs. 64 sf permitted - 27.9 sf variance requested)**

**Variance for wall sign area (70 sf vs. 25 sf permitted - 45 sf variance requested)**

TOWN OF NEW WINDSOR CODE: 300-26 & Chapter 300 VIII

  
\_\_\_\_\_  
Mark J. Edsall, P.E., P.P.  
Engineer for the Planning Board

9-26-05

Public Hearing - Re-Opened

- ① Dave Sarinsky - Spoke in favor of the operation
- ② Jean Antonelli - Spoke in favor of the operation.

**AFFIDAVIT OF MAILING**

**ZONING BOARD OF APPEALS: TOWN OF NEW WINDSOR  
COUNTY OF ORANGE: STATE OF NEW YORK**

-----X

In the Matter of the Application for Variance of

QUICK CHEK

**AFFIDAVIT OF  
SERVICE  
BY MAIL**

#05-54

X

STATE OF NEW YORK )

) SS:

COUNTY OF ORANGE )

MYRA L. MASON, being duly sworn, deposes and says:

That I am not a party to the action, am over 18 years of age and reside at 67 Bethlehem Road, New Windsor, NY 12553.

That on the 13TH day of **SEPTEMBER**, 2005, I compared the 72 addressed envelopes containing the Public Hearing Notice pertinent to this case with the certified list provided by the Assessor's Office regarding the above application for a variance and I find that the addresses are identical to the list received. I then placed the envelopes in a U.S. Depository within the Town of New Windsor.

Sworn to before me this

Myra L. Mason  
Myra L. Mason, Secretary

13<sup>th</sup> day of September, 2005

J. F. Mead (Gallagher)  
Notary Public

JENNIFER MEAD  
Notary Public, State Of New York  
No. 01ME6050024  
Qualified In Orange County  
Commission Expires 10/30/ 2006

**PUBLIC HEARING NOTICE**  
**ZONING BOARD OF APPEALS**  
**TOWN OF NEW WINDSOR**

**PLEASE TAKE NOTICE** that the Zoning Board of Appeals of the TOWN OF NEW WINDSOR, New York, will hold a Public Hearing on the following Proposition:

**Appeal No. 05-54**

**Request of QUICK CHEK FOOD STORES**

**for an INTERPRETATION of, and VARIANCES from, the Zoning Local Law to Permit:**

**Request for:**

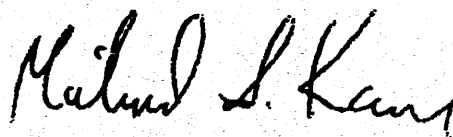
**INTERPRETATION and, if needed,  
VARIANCE - of Code Section 300-26(A) relative to 1000 ft. spacing  
between "gasoline facilities/stations". As per bulk tables, this application is  
for "Convenience store with gasoline sales" (use B-7)**

**FREE STANDING SIGN - Request for 27.9 sf for sign.**

**WALL SIGN - Request for 45 sf for wall sign.**

**All at corner of Rt. 32 & Union Avenue in an NC Zone (12-1-49)**

**PUBLIC HEARING will take place on SEPTEMBER 26, 2005  
at the New Windsor Town Hall, 555 Union Avenue, New Windsor, New York  
beginning at 7:30 P.M.**



---

**Michael Kane, Chairman**



# Town of New Windsor

555 Union Avenue  
New Windsor, New York 12553  
Telephone: (845) 563-4631  
Fax: (845) 563-3101  
J. Todd Wiley, IAO

## Assessor's Office

August 26, 2005

Howard Geneslaw, Esq.  
One Pennsylvania Plaza-37<sup>th</sup> Floor  
New York, NY 10119-3701

Re: 12-1-49 ZBA#05-53 (72)

Dear Mr. Geneslaw:

According to our records, the attached list of property owners are within five hundred (500) feet of the above referenced property.

The charge for this service is \$95.00, minus your deposit of \$25.00.

Please remit the balance of \$70.00 to the Town Clerk's Office.

Sincerely,

J. Todd Wiley, IAO  
Sole Assessor

JTW/lrd

CC: Myra Mason, ZBA

12-1-10 & 12-1-11  
Samuel & Kathryn Sorbello  
34 Hillside Ave.  
New Windsor, NY 12553

12-1-28 & 12-1-129  
Martine Dacilas Laguerre  
15 Hillside Ave.  
New Windsor, NY 12553

12-2-2 & 12-2-3  
David Sarinsky  
298 Union Ave.  
New Windsor, NY 12553

12-1-12 & 9-1-9  
Patsy & Josephine Di Paolo  
32 Hillside Ave.  
New Windsor, NY 12553

12-1-30  
Erik Cutroneo  
19 Hillside Ave. Apt#3  
New Windsor, NY 12553

12-2-4  
Gertrude Sarinsky  
294 Union Ave.  
New Windsor, NY 12553

12-1-13 & 9-1-8  
Archie & Gloria Antonelli  
28 Hillside Ave.  
New Windsor, NY 12553

12-1-31 & 12-1-32  
Nicholas Cracolici  
23 Hillside Ave.  
New Windsor, NY 12553

12-2-5  
David & Jacie Sarinsky  
298 Union Ave.  
New Windsor, NY 12553

12-1-14  
Kevin & Ellen Mann  
24 Hillside Ave.  
New Windsor, NY 12553

12-1-33  
Cory & Wilma Anazalone  
27 Hillside Ave.  
New Windsor, NY 12553

9-1-11  
Ofer Avgush  
152 Route 202  
Garnerville, NY 10923

12-1-16  
Philomena Guariglia Mahood  
20 Hillside Ave.  
New Windsor, NY 12553

12-1-34 & 12-1-35  
Bernard Mc Cullom  
31 Hillside Ave.  
New Windsor, NY 12553

9-1-12.1  
BJS Holding, LLC  
38 West 32<sup>nd</sup> St. Room 1201  
New York, NY 10001

12-1-18.1  
Eric Acquaro  
16 Hillside Ave.  
New Windsor, NY 12553

12-1-36 & 12-1-37  
John J III & Louise Baker  
35 Hillside Ave.  
New Windsor, NY 12553

9-1-12.2  
Angelina Talmadge  
C/O Bernie Colandrea  
13 Veronica Ave.  
New Windsor, NY 12553

12-1-19  
Manuel & Carmen Cruz  
12 Hillside Ave.  
New Windsor, NY 12553

12-1-38  
Anthony & Rose Damiano  
39 Hillside Ave.  
New Windsor, NY 12553

9-1-25.3  
Herbert Redl  
80 Washington St. Suite 310  
Poughkeepsie, NY 12601

12-1-23  
Ofer Avgush  
4 Hillside Ave.  
New Windsor, NY 12553

12-1-46.1  
Jonle Enterprises, Inc.  
354 Union Ave.  
New Windsor, NY 12553

9-1-25.4  
Eugene & Jann Hecht, LLC  
129 Meadow Hill Rd.  
Newburgh, NY 12550

12-1-24  
Louis & Kathleen Antonelli  
3 Hillside Ave.  
New Windsor, NY 12553

12-1-48  
Central Hudson Gas & Elec Corp.  
284 South Ave.  
Poughkeepsie, NY 12602

Section 92  
Patriot Ridge Dev. LLC  
C/O Ave Realty  
1 Executive Blvd.  
Yonkers, NY 10701

12-1-27  
Frank Sr. & John Antonelli  
4 Cedar Court  
Palm Coast, FL 32137

12-2-1  
Orwest New Windsor, Inc.  
C/O Ralph DiBart  
400 Central Park West #7R  
New York, NY 10025

92-1-1.-1  
James & Maria Massi  
1001 Ethan Allen Dr.  
New Windsor, NY 12553



92-1-1.-2  
Heidi Tannenbaum  
1003 Ethan Allen Dr.  
New Windsor, NY 12553

92-1-1.-5  
William Welner  
1009 Ethan Allen Dr.  
New Windsor, NY 12553

92-1-1.-8  
Barbara Connelly  
1015 Ethan Allen Dr.  
New Windsor, NY 12553

92-1-1.-11  
Edward Patterson  
1012 Ethan Allen Dr.  
New Windsor, NY 12553

92-1-1.-14  
Joseph & Irene Nunnari  
1018 Ethan Allen Dr.  
New Windsor, NY 12553

92-1-1.-17  
Marsha Bryan  
2004 John Jay Ct.  
New Windsor, NY 12553

92-1-1.-20  
Silverio & Virginia Albano  
2010 John Jay Ct.  
New Windsor, NY 12553

92-1-1.-23  
Giovanni A. & Diana Natal Ordonez  
2016 John Jay Ct.  
New Windsor, NY 12553

92-1-1.-26  
Alfred & Eileen Ferrara  
2013 John Jay Ct.  
New Windsor, NY 12553

92-1-1.-29  
Robyn Skrypek  
2019 John Jay Ct.  
New Windsor, NY 12553

92-1-1.-3  
Lorraine Iorio  
1005 Ethan Allen Dr.  
New Windsor, NY 12553

92-1-1.-6  
Susanna Primakoff  
1011 Ethan Allen Dr.  
New Windsor, NY 12553

92-1-1.-9  
John & Christine Diopoulos  
1017 Ethan Allen Dr.  
New Windsor, NY 12553

92-1-1.-12  
Marvin & Lynn Richardson  
1014 Ethan Allen Dr.  
New Windsor, NY 12553

92-1-1.-15  
Kevin & Leslie Cabanas  
2000 John Jay Ct.  
New Windsor, NY 12553

92-1-1.-18  
Frances D'Alessandro  
2006 John Jay Ct.  
New Windsor, NY 12553

92-1-1.-21  
Harry Steinway  
2012 John Jay Ct.  
New Windsor, NY 12553

92-1-1.-24  
Donna Acosta  
2018 John Jay Ct.  
New Windsor, NY 12553

92-1-1.-27  
Alyson McCarroll  
2015 John Jay Ct.  
New Windsor, NY 12553

92-1-1.-30  
Ronald & Lucy Sherman  
2021 John Jay Ct.  
New Windsor, NY 12553

92-1-1.-4  
Carroll Georgens  
1007 Ethan Allen Dr.  
New Windsor, NY 12553

92-1-1.-7  
Hugh & Jean Keahon  
1013 Ethan Allen Dr.  
New Windsor, NY 12553

92-1-1.-10  
Richard & Veronica Trifilo  
1019 Ethan Allen Dr.  
New Windsor, NY 12553

92-1-1.-13  
Estelle Lipp  
1016 Ethan Allen Dr.  
New Windsor, NY 12553

92-1-1.-16  
Micheal & Carol Schwartz  
2002 John Jay Ct.  
New Windsor, NY 12553

92-1-1.-19  
Donna Huston  
2008 John Jay Ct.  
New Windsor, NY 12553

92-1-1.-22  
Robert & Lori Goldstein  
2014 John Jay Ct.  
New Windsor, NY 12553

92-1-1.-25  
Phillip & Rachael Skigen  
2011 John Jay Ct.  
New Windsor, NY 12553

92-1-1.-28  
Clara Locey  
2017 John Jay Ct.  
New Windsor, NY 12553

92-1-1.-31  
Katherine Jones  
2001 John Jay Ct.  
New Windsor, NY 12553

92-1-1.-32

Debra Johnson & Margaret Conacchio  
2003 John Jay Ct.  
New Windsor, NY 12553

92-1-1.-33

Up From The Ashes, Inc.  
37-88 Review Ave.  
Long Island City, NY 11101

92-1-1.-34

Marilyne Natkiel  
2007 John Jay Ct.  
New Windsor, NY 12553

92-1-1.-35

Lawrence Lissauer  
2009 John Jay Ct.  
New Windsor, NY 12553

92-1-1.-36

Antonio R. Jr. & Brenda Hibbert  
3000 Patrick Henry Ct.  
New Windsor, NY 12553

92-1-1.-37

Georgia Sullivan  
3002 Patrick Henry Ct.  
New Windsor, NY 12553

92-1-1.-38

Kathleen VanEtten  
3004 Patrick Henry Ct.  
New Windsor, NY 12553

92-1-1.-39

Desmond & Mary Keegan  
3006 Patrick Henry Ct.  
New Windsor, NY 12553

92-1-1.-65

Shirley Maguire  
1021 Ethan Allen Dr.  
New Windsor, NY 12553

92-1-1.-66

Victor & Jeanette Alicea  
1023 Ethan Allen Dr.  
New Windsor, NY 12553

92-1-1.-67

Elizabeth Macri  
1025 Ethan Allen Dr.  
New Windsor, NY 12553

92-1-1.-68

Candice Casaly  
1027 Ethan Allen Dr.  
New Windsor, NY 12553

**Town of New Windsor**  
**ZONING BOARD OF APPEALS**  
**PUBLIC HEARING NOTICE**

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Request for:  
 INTERPRETATION and, if needed, VARIANCE - of Code Section 300-26(A) relative to 1000 ft. spacing between "gasoline facilities/stations". As per bulk tables, this application is for "Convenience store with gasoline sales" (Use B-7)

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 WALL SIGN - Request for 45 sf for wall sign.  
 All at corner of Rt. 32 & Union Avenue in an NC Zone (12-1-49)

PUBLIC HEARING will take place on September 26, 2005 at the New Windsor Town Hall, 555 Union Avenue, New Windsor, New York beginning at 7:30 P.M.

MICHAEL KANE  
 CHAIRMAN

**Ad Number: 1795659 Advertiser: NEW WINDSOR, TOWN**

Phone: 8455634615 Sys No: 1194114 Caller: MYRA MASON

**INVOKING CUSTOMER:**

Phone: 8455634615 Sys No: 1194114 AcctNo: P.O. No:

Name: NEW WINDSOR, TOWN Subscriber:

Address: ZONING AND PLANNING

555 UNION AVENUE

NEW WINDSOR NY 12553

**ORDER:**

Printed By: THRFODDRN Date: 09/06/2005 Assigned Sales: TownofNewWindsor ZONINGBOARDOFAPPEALS P AdType: LINEAR Order Type: NORMAL

Manual Delay: Box No: Call Back: Y

**NOTES:**

Change Reason: cc

**INSERTION:**

Product: THI Paper: IM Class: 999X

Schedule: Start Date - 09/10/2005 End Date - 09/10/2005

Sort: TOWN OF NEW WINDSOR ZONING BOARD OF APPEA

**PRODUCTION:**

Text Size: 2 x 36.00 ProdType: ENTERPRISE ColorNo: 0 Colors:

Tear sheets: 1 Proofs: 0 Affidavits: 1 Alt Add: N

**PRICING:**

Price: 62.92 Payment Method: B1 Amount Paid: 0 Amount Owed: 62.92

Price Method: 0 (0=Normal, 1=User Net, 2=System Gross) Rate Code: LEL

For fields listed below 0 = NO 1 = YES

Till Forbid: 0 Mult. Content: 0



# Town of New Windsor

555 Union Avenue  
New Windsor, New York 12553  
Telephone: (845) 563-4615  
Fax: (845) 563-4689

## ZONING BOARD OF APPEALS

September 13, 2005

Gibbons, DelDeo, Dolan Griffinger & Vecchione  
One Pennsylvania Plaza – 37th Floor  
New York, NY 10119-3701

ATTN: HOWARD GENESLAW

SUBJECT: REQUEST FOR VARIANCE #05-54

Dear Mr. Geneslaw:

This is just to let you know your Notices for Public Hearing were mailed out and the notice was also sent to The Times Herald Record Newspaper for publication. **PLEASE NOTE: The charge for publication in the Times Herald Record will be deducted from your escrow that was posted with your application papers.**

Your Public Hearing before the Zoning Board of Appeals for your requested variance at:

Quick Chek  
Union Avenue & Rt. 32  
New Windsor, NY

is scheduled for the September 26, 2005 agenda.

This meeting starts at 7:30 p.m. and is held in the Town Meeting Room at Town Hall. If you have any questions or concerns in this matter, please feel free to contact me.

Very truly yours,

---

Myra Mason, Secretary, Zoning Board of Appeals

MLM:mlm

cc: Frank Antonelli - 360 Union Avenue  
New Windsor, NY 12553

Bohler Engineering, P.C. - 776 Mountain Blvd.  
Watchung, NJ 07069

ATTN: JEFF MARTELL

**GIBBONS, DEL DEO, DOLAN,  
GRIFFINGER & VECCHIONE**  
One Pennsylvania Plaza-37<sup>th</sup> Floor  
New York, New York 10119-3701  
(212) 649-4700  
Attorneys for Applicant, Quick Chek Corporation

**IN RE:  
QUICK CHEK CORPORATION (f/k/a  
QUICK CHEK FOOD STORES, INC.)**

**Section 12, Block 1, Lot 49  
Town of New Windsor, New York**

**TOWN OF NEW WINDSOR  
ZONING BOARD OF APPEALS**

**DISCLOSURE PURSUANT TO  
GENERAL MUNICIPAL LAW  
SECTION 809**

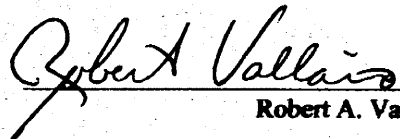
**STATE OF NEW JERSEY            )  
  ) ss.:  
COUNTY OF HUNTERDON        )**

1. I, Robert A. Vallario, am a Regional Director of Real Estate for Quick Chek Corporation (f/k/a Quick Chek Food Stores, Inc.) (hereinafter the "Company"). The Company is making an application to the Zoning Board of Appeals of the Town of New Windsor, New York seeking an interpretation and area variances.

2. This disclosure statement is submitted in support of this application pursuant to Section 809 of the General Municipal Law of the State of New York (hereinafter "Section 809").

3. To the best of my knowledge, information and belief, there are no officers of the State of New York and no officers or employees of the Town of New Windsor, that possess an interest, within the meaning of Section 809, in the Company. Upon further knowledge, information and belief, there are no spouses, siblings, parents, children or grandchildren of such state officer or municipal officer or employee or the spouses of any of them, who possess an interest in the Company.

4. I understand that a knowing and intentionally false statement made on this disclosure is punishable as a misdemeanor.

  
Robert A. Vallario

Dated: September 15, 2005



RESULTS OF Z.B.A. MEETING OF: August 2, 2005

PROJECT: Quick Check ZBA # 05-16  
P.B.#

**P.B.#** \_\_\_\_\_

**USE VARIANCE:**      **NEED: EAF** \_\_\_\_\_ **PROXY** \_\_\_\_\_

LEAD AGENCY: M)\_\_\_\_\_S)\_\_\_\_\_ VOTE: A\_\_\_\_\_N\_\_\_\_\_

GANN \_\_\_\_\_  
LOCEY \_\_\_\_\_  
BROWN \_\_\_\_\_  
MCDONALD \_\_\_\_\_  
REIS \_\_\_\_\_  
KANE \_\_\_\_\_

CARRIED: Y \_\_\_\_\_ N \_\_\_\_\_

**PUBLIC HEARING: M)**\_\_\_\_\_ **S)**\_\_\_\_\_ **VOTE: A**\_\_\_\_ **N**\_\_\_\_\_

GANN \_\_\_\_\_  
LOCEY \_\_\_\_\_  
BROWN \_\_\_\_\_  
MCDONALD \_\_\_\_\_ CARRIED: Y \_\_\_\_\_ N \_\_\_\_\_  
REIS \_\_\_\_\_  
KANE \_\_\_\_\_

**NEGATIVE DEC:** M) \_\_\_\_\_ S) \_\_\_\_\_ VOTE: A \_\_\_\_\_ N \_\_\_\_\_

GANN \_\_\_\_\_  
LOCEY \_\_\_\_\_  
BROWN \_\_\_\_\_  
MCDONALD \_\_\_\_\_ CARRIED: Y \_\_\_\_\_ N \_\_\_\_\_  
REIS \_\_\_\_\_  
KANE \_\_\_\_\_

APPROVED: M)\_\_\_\_S)\_\_\_\_ VOTE: A\_\_\_\_N\_\_\_\_

GANN \_\_\_\_\_  
LOCEY \_\_\_\_\_  
BROWN \_\_\_\_\_  
MCDONALD \_\_\_\_\_ CARRIED: Y \_\_\_\_\_ N \_\_\_\_\_  
REIS \_\_\_\_\_  
KANE \_\_\_\_\_

**ALL VARIANCES - PRELIMINARY APPEARANCE:**

**SCHEDULE PUBLIC HEARING:** M) Yes S) No VOTE: A 4 N 0

GANN  
~~LOCEY~~  
~~BROWN~~  
MCDONALD  
REIS  
KANE

CARRIED: Y ✓ N       

**PUBLIC HEARING: STATEMENT OF MAILING READ INTO MINUTES**

**VARIANCE APPROVED:**      M)\_\_\_ S)\_\_\_ **VOTE:** A\_\_\_ N\_\_\_

**GANN** \_\_\_\_\_  
**LOCEY** \_\_\_\_\_  
**BROWN** \_\_\_\_\_  
**MC DONALD** \_\_\_\_\_  
**REIS** \_\_\_\_\_  
**KANE** \_\_\_\_\_

**CARRIED: Y N**

Sent to O.C. Manning Dept.

PROJECT ID NUMBER

617.20  
APPENDIX C

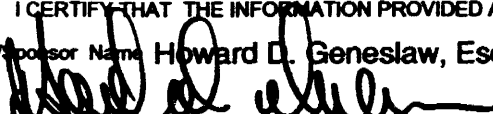
SEQR

## STATE ENVIRONMENTAL QUALITY REVIEW

**SHORT ENVIRONMENTAL ASSESSMENT FORM**

for UNLISTED ACTIONS Only

**PART 1 - PROJECT INFORMATION** (To be completed by Applicant or Project Sponsor)

1. APPLICANT/SPONSOR Quick Chek Food Stores, Inc.	2. PROJECT NAME Quick Chek Food Store
3. PROJECT LOCATION: Town of New Windsor Municipality Orange County	
4. PRECISE LOCATION: street address and road intersections, prominent landmarks etc - or provide map 170 Windsor Highway, at the intersection of Union Avenue (a/k/a CR 69) and New York State Highway 32.	
5. IS PROPOSED ACTION : <input checked="" type="checkbox"/> New <input type="checkbox"/> Expansion <input type="checkbox"/> Modification/Alteration	
6. DESCRIBE PROJECT BRIEFLY: The proposed development consists of a new 7,195 s.f. Quick Chek convenience store; sale of fuel from eight dispensers on four fueling islands under a canopy; and a 2,500 s.f. car wash.  The other involved agencies are undertaking coordinated review. It is anticipated that the Zoning Board of Appeals will conduct uncoordinated review.	
7. AMOUNT OF LAND AFFECTED: Initially 2.91 acres Ultimately 2.91 acres	
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If no, describe briefly: Area variances for signage; interpretation concerning whether the proposed sale of fuel is a "gasoline service station" since no repairs are performed (if so area variance required from 1,000 foot radius restriction)	
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? (Choose as many as apply.) <input checked="" type="checkbox"/> Residential <input type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input type="checkbox"/> Agriculture <input type="checkbox"/> Park / Forest / Open Space <input type="checkbox"/> Other (describe)	
10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL) <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If yes, list agency name and permit / approval: Planning Board (site plan and special permit); Zoning Board of Appeals (interpretation and area variances) ; NYSDOT (Highway Work Permit); Orange County (Road opening permit); NYSDOH (underground fuel storage tanks.)	
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, list agency name and permit / approval:	
12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE Applicant/Sponsor Name Howard D. Geneslaw, Esq., Applicant's attorney Date: August 12, 2005 Signature 	

If the action is a Coastal Area, and you are a state agency,  
complete the Coastal Assessment Form before proceeding with this assessment

**PART II - IMPACT ASSESSMENT (To be completed by Agency)**

<b>A. DOES ACTION EXCEED ANY TYPE I THRESHOLD IN 6 NYCRR, PART 617.4? If yes, coordinate the review process and use the FULL EAF.</b> <input type="checkbox"/> Yes <input type="checkbox"/> No	
<b>B. WILL ACTION RECEIVE COORDINATED REVIEW AS PROVIDED FOR UNLISTED ACTIONS IN 6 NYCRR, PART 617.6? If No, a negative declaration may be superseded by another involved agency.</b> <input type="checkbox"/> Yes <input type="checkbox"/> No	
<b>C. COULD ACTION RESULT IN ANY ADVERSE EFFECTS ASSOCIATED WITH THE FOLLOWING: (Answers may be handwritten, if legible)</b>	
<b>C1.</b> Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic pattern, solid waste production or disposal, potential for erosion, drainage or flooding problems? Explain briefly:	<div style="border: 1px solid black; height: 30px;"></div>
<b>C2.</b> Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character? Explain briefly:	<div style="border: 1px solid black; height: 30px;"></div>
<b>C3.</b> Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly:	<div style="border: 1px solid black; height: 30px;"></div>
<b>C4.</b> A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources? Explain briefly:	<div style="border: 1px solid black; height: 30px;"></div>
<b>C5.</b> Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly:	<div style="border: 1px solid black; height: 30px;"></div>
<b>C6.</b> Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly:	<div style="border: 1px solid black; height: 30px;"></div>
<b>C7.</b> Other impacts (including changes in use of either quantity or type of energy? Explain briefly:	<div style="border: 1px solid black; height: 30px;"></div>
<b>D. WILL THE PROJECT HAVE AN IMPACT ON THE ENVIRONMENTAL CHARACTERISTICS THAT CAUSED THE ESTABLISHMENT OF A CRITICAL ENVIRONMENTAL AREA (CEA)? (If yes, explain briefly:)</b> <input type="checkbox"/> Yes <input type="checkbox"/> No	
<div style="border: 1px solid black; height: 40px;"></div>	
<b>E. IS THERE, OR IS THERE LIKELY TO BE, CONTROVERSY RELATED TO POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS? If yes explain:</b> <input type="checkbox"/> Yes <input type="checkbox"/> No	
<div style="border: 1px solid black; height: 40px;"></div>	

**PART III - DETERMINATION OF SIGNIFICANCE (To be completed by Agency)**

**INSTRUCTIONS:** For each adverse effect identified above, determine whether it is substantial, large, important or otherwise significant. Each effect should be assessed in connection with its (a) setting (i.e. urban or rural); (b) probability of occurring; (c) duration; (d) irreversibility; (e) geographic scope; and (f) magnitude. If necessary, add attachments or reference supporting materials. Ensure that explanations contain sufficient detail to show that all relevant adverse impacts have been identified and adequately addressed. If question d of part ii was checked yes, the determination of significance must evaluate the potential impact of the proposed action on the environmental characteristics of the CEA.

<input type="checkbox"/>	<b>Check this box if you have identified one or more potentially large or significant adverse impacts which MAY occur. Then proceed directly to the FULL EAF and/or prepare a positive declaration.</b>						
<input type="checkbox"/>	<b>Check this box if you have determined, based on the information and analysis above and any supporting documentation, that the proposed action WILL NOT result in any significant adverse environmental impacts AND provide, on attachments as necessary, the reasons supporting this determination.</b>						
<table style="width: 100%;"><tr><td style="width: 50%; text-align: center; border-top: 1px solid black;">Name of Lead Agency</td><td style="width: 50%; text-align: center; border-top: 1px solid black;">Date</td></tr><tr><td style="text-align: center; border-top: 1px solid black;">Print or Type Name of Responsible Officer in Lead Agency</td><td style="text-align: center; border-top: 1px solid black;">Title of Responsible Officer</td></tr><tr><td style="text-align: center; border-top: 1px solid black;">Signature of Responsible Officer in Lead Agency</td><td style="text-align: center; border-top: 1px solid black;">Signature of Preparer (if different from responsible officer)</td></tr></table>		Name of Lead Agency	Date	Print or Type Name of Responsible Officer in Lead Agency	Title of Responsible Officer	Signature of Responsible Officer in Lead Agency	Signature of Preparer (if different from responsible officer)
Name of Lead Agency	Date						
Print or Type Name of Responsible Officer in Lead Agency	Title of Responsible Officer						
Signature of Responsible Officer in Lead Agency	Signature of Preparer (if different from responsible officer)						



**GIBBONS, DEL DEO, DOLAN, GRIFFINGER & VECCHIONE**  
A PROFESSIONAL CORPORATION

HOWARD D. GENESLAW  
Director  
hgeneslaw@gibbonslaw.com

ATTORNEYS AT LAW  
ONE PENNSYLVANIA PLAZA  
37TH FLOOR  
NEW YORK, N.Y. 10119-3701  
212-649-4700  
[www.gibbonslaw.com](http://www.gibbonslaw.com)

DIRECT FACSIMILE  
(973) 639-6256

September 7, 2005

**VIA FEDEX PRIORITY OVERNIGHT**

Ms. Myra Mason, Clerk  
Town of New Windsor Zoning Board of Appeals  
555 Union Avenue  
New Windsor, New York 12553

**Re: Quick Chek Food Stores  
Section 12, Block 1, Lot 49  
Town of New Windsor**

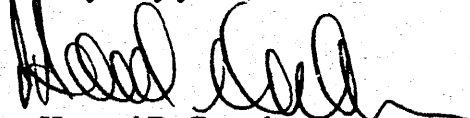
Dear Ms. Mason:

In support of the above application to the Zoning Board of Appeals, enclosed please find seventy-two (72) envelopes containing the notice of public hearing (copy attached) scheduled for September 26, 2005. The envelopes have our firm's return address and have been stamped and sealed, pursuant to Town of New Windsor Code § 300-85.A.(4), (5) and (6). They are submitted to you for verification and mailing pursuant to § 300-85.A.(7). Once you have prepared the required affidavit, please provide me with a copy.

We also enclose a check in the amount of \$70.00, payable to the "Town of New Windsor", in payment of the outstanding balance for preparation of the list of property owners.

If you have any questions or require anything further, please call. Thank you for your assistance and cooperation.

Very truly yours,



Howard D. Geneslaw

HDG/  
Enclosures

#1012965 v1  
105846-53430

**GIBBONS, DEL DEO, DOLAN, GRIFFINGER & VECCHIONE**  
A PROFESSIONAL CORPORATION

HOWARD D. GENESLAW  
Director  
hgeneslaw@gibbonslaw.com

ATTORNEYS AT LAW  
ONE PENNSYLVANIA PLAZA  
37TH FLOOR  
NEW YORK, N.Y. 10119-3701  
212-649-4700  
[www.gibbonslaw.com](http://www.gibbonslaw.com)

DIRECT FACSIMILE  
(973) 639-6256

August 24, 2005

**VIA FEDEX STANDARD OVERNIGHT**

Ms. Myra Mason, Clerk  
Town of New Windsor Zoning Board of Appeals  
555 Union Avenue  
New Windsor, New York 12553

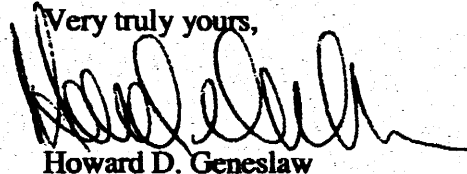
**Re: Quick Chek Food Stores  
Section 12, Block 1, Lot 49  
Town of New Windsor**

Dear Ms. Mason:

To facilitate the General Municipal Law § 239-m referral to the Orange County Planning Department, enclosed please find a duplicate set of all application materials submitted to the Zoning Board of Appeals in this matter. They include the plans and application forms, title report, deed, sign details and photographs of similar signs, as described in our letter of August 10, 2005; the executed application by the co-owner of the property and color site photographs, as described in our letter of August 11, 2005; and the Short EAF as described in our letter of August 12, 2005.

Please forward all of the foregoing materials to the Orange County Planning Department, and please copy me on the transmittal as well as any response that you receive. Thank you for your assistance and cooperation.

Very truly yours,



Howard D. Geneslaw

HDG/  
Enclosures

#1009813 v1  
105846-53430

# ORANGE COUNTY DEPARTMENT OF PLANNING

124 Main Street  
Goshen, NY 10924-2124

## APPLICATION FOR MANDATORY COUNTY REVIEW OF LOCAL PLANNING ACTION

(Variances, Zone Changes, Special Permits, Subdivisions, Site Plans)

Local File No. 05-54 (Please include this number on any correspondence)

1. Municipality Town of New Windsor

Public Hearing Date: 09-26-05

City, Town or Village Board XX Planning Board      Zoning Board XXX

2. Owner:                      Name: FRANK ANTONELLI  
                                    Address: 4 CEDAR CT. - PALM COAST, FL

3. Applicant \*                Name: QUICK CHECK FOOD STORES  
                                    Address: P.O. BOX 600 - WHITEHOUSE STA., NJ 08889

\*If applicant is owner, leave blank

4. Location of Site: CORNER RT. 32 & COUNTY RT. 69 (UNION AVE.)  
(Street or highway, plus nearest intersection)

Tax Map Identification:      Section: 12    Block: 1    Lot: 49

Present Zoning District:    NC                      Size of Parcel: 2.91 Acres

5. Type of Review:

### Area Variance & interpretation

Zone Change:    From                           To:     

Zoning Amendment:    To Section     

\*\*Subdivision:            Number of Lots/Units     

\*\*\*Site Plan:             Use     

Date: 08-25-05

Signature & Title:

*Myra Mason, Secretary to ZBA*  
Myra Mason, Secretary

New Windsor Zoning Board of Appeals

**Town of New Windsor**  
555 Union Avenue  
New Windsor, NY 12553  
(845) 563-4611

**RECEIPT**  
**#762-2005**

08/16/2005

Quick-check ZBA #05-54

Received \$ 150.00 for Zoning Board Fees, on 08/16/2005. Thank you for stopping by the Town Clerk's office.

As always, it is our pleasure to serve you.

Deborah Green  
Town Clerk

**TOWN OF NEW WINDSOR**  
**ZONING BOARD OF APPEALS**

**RECEIPT OF ESCROW RECEIVED:**

DATE RECEIVED: 08-16-05

FOR: ESCROW 05-54

FROM:


**Quick Chek Food Stores, Inc.**  
**P.O. Box 600**  
**Whitehouse Station, NJ 08889**

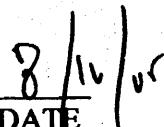
CHECK NUMBER: 65357

TELEPHONE: 908-534-7156

AMOUNT: 500.00

RECEIVED AT COMPTROLLER'S OFFICE BY:

  
\_\_\_\_\_  
NAME

  
\_\_\_\_\_  
DATE

PLEASE RETURN ONE SIGNED COPY TO MYRA FOR FILING

THANK YOU

**QUICK CHEK FOOD STORES  
SECTION 12, BLOCK 1, LOT 49  
NYS ROUTE 32 & UNION AVENUE**

**STATEMENT IN SUPPORT OF INTERPRETATION AND AREA VARIANCES**

The Applicant proposes to develop a 7,195 s.f. convenience store with gasoline sales together with a 2,500 s.f. car wash on property identified on the Town of New Windsor Tax Map as Section 12, Block 1, Lot 49 (the "Property"). The Property is a corner lot consisting of 2.91 acres and is situated within the NC-Neighborhood Commercial Zone at the northwest corner of the intersection of New York State Highway 32 and Union Avenue with frontage on both roadways. The R-4 Zone District is adjacent to the property. The C Zone District is also nearby. Another establishment which engages in the sale of gas is located across the street from the Property, potentially implicating Zoning Local Law § 300-26.A. and requiring an area variance to permit the proposed use. The within application also involves area variances relating to the proposed signage. Specifically, a 70 s.f. facade mounted sign is proposed where the Zoning Local Law limits such signs to 25 s.f. A 91.9 s.f. freestanding sign is also proposed where the Zoning Local Law limits such signs to 64 s.f.

The within application was previously submitted to the Town of New Windsor Planning Board ("Planning Board") for site plan approval and to obtain a special permit. The Applicant appeared before the Planning Board on June 8, 2005. On July 21, 2005, the Planning Board Engineer issued a Notice of Disapproval of Planning Board Application on the basis that the within proposal requires an interpretation from the Board of Appeals as to whether the 1,000 foot radius restriction found in § 300-26.A. applies to convenience stores that sell gas. If this Board finds that the restriction does not apply to convenience stores that sell gas, the Planning Board has jurisdiction to issue a special permit for the proposed use and no variance relief would be required from this Board relative to the radius restriction. Alternatively, if this Board were to find that the radius restriction does apply, then jurisdiction rests exclusively with this Board to consider an area variance from the radius restriction. As set forth below, it is suggested that the radius restriction is not intended to apply to convenience stores that sell gas. Alternatively, if an area variance from the radius restriction is found to be required, the Applicant submits that such variance relief, as well as variance relief relative to the proposed signs, may be granted because the benefits of granting the variance outweigh any detriment to the character of the surrounding community.

<b>INTERPRETATION</b>
-----------------------

**Reasons Why the 1,000 Foot Radius Restriction Found at § 300-26.A.  
Does Not Apply To a Convenience Store That Sells Gas.**

The pertinent use regulations of the Zoning Local Law provide that "Gasoline stations, including convenience stores which sell gas, service repair garages, car wash and car rental facilities" are permitted within the NC Zone by special permit subject to site plan approval of the Planning Board and compliance with the use regulations found at § 300-26. That section of the Zoning Local Law provides in pertinent part:

- A. By special permit of the planning board, gasoline stations and repair garages are permitted, provided that no plot line of any station shall be closer than 200' to a school playground, church, hospital, library or institution for the elderly or children. No gasoline station shall be permitted within 1,000 feet of any other gasoline facility fronting in the same street. A gasoline station may include a convenience store which customarily sells retail products and food, including deli, bakery and franchise fast food, as an ancillary use.

The Applicant seeks an interpretation as to whether the above 1,000 foot radius limitation applies to the this proposal so as to require an area variance as a result of another establishment located across the street which engages in gasoline sales. For the reasons expressed below, it is suggested that the 1,000 foot radius foot limitation does not apply here and the Planning Board may grant a special permit for the proposed use subject to the bulk criteria of § 300-26.B. to the extent they apply.

By its express terms, § 300-26.A. applies only to "gasoline stations" and "repair garages". The proposed use associated with this application does not meet the definition of "Gasoline Station". The definitional section of the Zoning Local Law found at § 300-89 defines "Gasoline Service Station" as:

A building or other structure or a tract of land used or heretofore used primarily for the servicing of motor vehicles. It shall signify a retail place of business engaged primarily in the sale of motor fuels, and also in supplying goods and services generally required in the operation and maintenance of motor vehicles, including the sale of petroleum products; sale and servicing of tires, batteries; automotive accessories and replacement items; washing and lubrication services; and the performance of routine automotive maintenance and repairs.

The Zoning Local Law does not define "repair garages". However, that term must be reasonably understood to define uses that are principally engaged in the repair of motor vehicles.

The proposed use clearly does not fall within the Zoning Local Law definition of "Gasoline Service Station" because the proposed use will not be "primarily for the service of motor vehicles" and will not be primarily engaged in the sale of "tires, batteries, automotive accessories and replacement items; washing and lubrication services; and the performance of routine maintenance and repairs." Similarly, the proposed use can not be characterized as a "repair garage" as that term would be commonly understood. Instead, this proposal consists of a mix of uses including a convenience store and car wash neither of which can be considered a "Gasoline Service Station" or "Repair Garage". The mixed use nature of the proposal is distinctly different than a "Gasoline Service Station" or "Repair Garage" and therefore the 1,000 foot radius restriction is not applicable to this proposed use. It is suggested that the radius restriction was not intended to apply to such mixed use facilities

because they do not strictly fall within the definition of "Gasoline Service Station" or "Repair Garage."

Section 300-26.A. fails to mention convenience stores that sell gas as being subject to the 1,000 foot radius limitation. It is suggested that the omission is intentional. The Town Board could have, but did not, include the term "convenience stores that sell gas" within subsection A and thereby subject such uses to the 1,000 foot radius limitation. It is clear that the Town Board draws distinctions between gasoline stations, repair garages and convenience stores that sell gas. The use table applicable to this zone specifically refers to all three uses indicating a legislative intent to draw distinctions between them and treat them as *separate* and *independent* uses under the Zoning Local Law. However, with respect to subsection A. of § 300-26, there is no mention of "convenience stores that sell gas" which evidences a legislative intent to *exclude* convenience stores that sell gas from the 1,000 foot radius limitation. If the Town Board intended to subject convenience stores that sell gas to the 1,000 foot radius limitation, it would have specifically mentioned this use in § 300-26.A.

In conclusion, based upon the reasons expressed above, the 1,000 foot radius limitation found in § 300-26.A. does not apply to the within application and applies only to "Gasoline Service Stations" and "Repair Garages", uses which are characterized by the repair and garaging of motor vehicles. The Applicant does not propose those activities.

## AREA VARIANCES

### Radius Restriction

In the alternative, and without prejudice to the foregoing position of the Applicant, it is suggested that if the Board finds that the 1,000 foot limitation applies, an area variance from this requirement is warranted and should be granted.

This Board possesses the legal authority to grant any required area variance pursuant to § 274-b of the Town Law which provides in pertinent part:

Application for area variance. Notwithstanding any provision of law to the contrary, where a proposed special use permit contains one or more features which do not comply with the zoning regulations, application may be made to the zoning board of appeals for an area variance pursuant to section two hundred sixty-seven-b of this article.

Section 267-b(3)(b) sets forth the standards for granting area variances. That section provides:

In making its determination, the zoning board of appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community of such grant. In making such determination the board shall also



consider: (1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting of the area variance; (2) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance; (3) whether the requested area variance is substantial; (4) whether the proposed area variance will have an adverse affect or impact on the physical or environmental conditions in the neighborhood or district; and (5) whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.

Applying the foregoing factors to the within circumstances demonstrates that the benefits to the applicant in granting the requested area variance are evident and no detriment to the health, safety and welfare of the community will result from the grant of the area variance, to the extent that an area variance is found to be required.

Character of the Neighborhood. There will be no undesirable change in the character of the neighborhood or any detriment to surrounding properties. The proposed convenience store with gas sales is located along a state highway and is entirely harmonious with the character of the surrounding uses which include commercial uses. In fact, commercial uses, including auto-related and retail uses, have been previously located at the Property without any negative impact on the surrounding neighborhood. The Property is buffered by substantial existing vegetation along the rear of the Property as shown in the photos submitted in support of this application. In addition, the Applicant proposes substantial landscaping, appropriate lighting and other means of buffering to reduce any impact upon surrounding properties. A conforming landscape plan is proposed that includes a variety of trees which will enhance the substantial existing trees and other vegetative growth at the Property. The marginal increase in traffic resulting from the proposed use is minor and of an insignificant nature. Instead, it is anticipated that the proposed store will serve "pass by" traffic that is already in the area. The proposed store is not a destination use and will serve the existing community without generating significant additional traffic in the area. The Applicant's experience has been that its stores actually compliment and provide benefits to the surrounding community by offering a clean, non-intrusive, well maintained and convenient location to purchase gas as well as a variety of high quality food products. The Applicant's own interest in maintaining high standards for all of its stores serves to ensure that the proposed store will not have a deleterious impact on the surrounding community.

Other Feasible Methods to Achieve Benefits. The applicant cannot achieve the benefits it seeks through other means. The subject property is particularly suited for a convenience store that sells gas given its location at the intersection of a state and county roadway. The Property was selected by the Applicant because it meets the Applicant's acquisition criteria for the development of new store sites in terms of lot size as well as traffic volume passing by the site. This site is unique for the Applicant's purposes given its location along heavily traveled roadways.

Requested Variance is Not Substantial. The area variance to permit the proposed use at this location is not substantial given the location of the site within a commercial zone which includes other commercial uses. The Applicant has also provided for significant buffering in addition to the existing spatial and vegetative buffers so that the variance, if granted, is not significant in terms of its impact upon the surrounding community. If the Board were to grant the area variance there would be no real detriment to surrounding properties. Again, the Property is a corner lot fronting on a state highway as well as a county roadway and the proposed use is particularly appropriate for this location.

No Adverse Affect Upon Physical or Environmental Conditions. There is no adverse affect or impact on the physical or environmental conditions in the neighborhood or district. Commercial uses have historically been located at the Property with no detriment to the surrounding community. The proposed use will not be intrusive or disruptive to the surrounding community. The Applicant has ensured that adequate and appropriate drainage and lighting will be provided so as to not impact upon any surrounding properties. The proposal represents an improvement to exiting conditions along Route 32 in that the Applicant proposes to reduce the number of access points to the property from Route 32 from two points of access to one access point resulting in a safer means to access the site. Finally, the proposed uses are entirely harmonious with the other surrounding commercial uses and will not generate any byproducts or waste that could pose a threat to the surrounding community.

Self Created Hardship. The Applicant submits that even though the circumstances could arguably meet the technical definition of self-created hardship, this fact alone is insufficient to deny the variance particularly in view of the benefits that will result from the grant of the variance.

Injury to the Applicant if Variance Were Denied. If the Board were to find that § 300-26.A. applies and does not grant the required area variance, significant economic injury would be visited upon the Applicant. The Applicant has expended a significant amount of time and money in evaluating the subject property for compliance with its acquisition criteria and its suitability for the proposed uses.

Conclusion. In conclusion, it is suggested that the evident benefits to the Applicant are not outweighed by any detriment to the community and the area variance relative to the 1,000 foot radius restriction should be granted to the extent it is deemed to be required.

### Facade Sign

The Applicant proposes a 70 s.f. facade mounted Quick Chek sign where the Zoning Local Law permits a maximum area of 25 s.f. for such signs. It is suggested that the benefits to the Applicant in granting an area variance to allow this sign are substantial and no detriment to the surrounding community will result from the variance.

Benefits to the Applicant. The proposed sign represents the standard Quick Chek sign which benefits the Applicant's interest in having all its stores possess a uniform appearance which fosters store recognition. In this regard, store identification is particularly important because Quick Chek Food Stores are new to the Orange County area and not widely recognized in New York. The area of the sign is warranted given that it fronts on a

state highway and is located approximately 200 feet from the highway. The increased size permits the sign to be seen more easily by passing motorists and allows motorists to quickly identify the store as a Quick Chek.

Character of the Neighborhood. The sign will not have a detrimental impact upon the surrounding community. The sign will not be visible from nearby residences so in terms of the impact upon adjoining residences, the variance is not substantial. Also, the single proposed sign represents a superior alternative to the signage that would be permitted under the Zoning Local Law. It is further noted that the Zoning Local Law does not distinguish between lot sizes with respect to sign regulations. The same 25 s.f. limitation for facade signs applies whether the property consists of a half an acre or three acres as it does here. The increased area of the facade sign is particularly appropriate here given the overall size of the lot. The facade sign is proportionate to the lot size and the building, which it architecturally complements. A conforming 25 s.f. facade sign would be undersized at this location and would not be a very effective sign. Finally, the proposed wall sign is harmonious with the character of the surrounding area which includes other commercial uses with similar signs. For these reasons it is suggested that an area variance to permit this wall sign is appropriate because the benefits of permitting the proposed Quick Chek wall sign are not substantially outweighed by any detriment to the character of the surrounding community given the location of the Property and the character of surrounding uses.

#### Freestanding Sign

The Applicant also proposes a 91.9 s.f. freestanding sign along Route 32. The Zoning Local Law limits the area of freestanding signs to 64 s.f. The benefits of permitting the proposed sign do not result in any detriment to the surrounding community and an area variance to permit the proposed sign may be granted.

Benefits to the Applicant. The proposed sign area permits sufficient space to identify all uses at the Property and to set forth price information for the types of gasoline proposed to be sold. The proposed sign permits approaching motorists to view the stated information at a distance and allow sufficient time for motorists to see the sign, recognize the services provided, determine whether or not to enter the site, and undertake the appropriate signaling, braking and turning maneuvers to do so safely. The "advance warning" character of the proposed sign fosters safe and efficient traffic movements. Also, as stated previously, Quick Chek Food Stores are new to this region and the larger proposed area will foster store and company recognition.

Character of the Neighborhood. The sign will be located along Route 32 and will not be situated in proximity to nearby residences so that there is no detriment to surrounding residences. Other uses in the area include commercial uses and the proposed sign is harmonious and consistent with these uses. For these reasons it is suggested that the benefits of the proposed freestanding sign are substantial and there is no detriment to the character of the surrounding community. Therefore, an area variance to permit the proposed freestanding sign is warranted.

**CERTIFICATE OF TITLE*****First American Title Insurance Company of New York***

Title No. 3004-64437

***First American Title Insurance Company of New York*** ("the Company") certifies to the "proposed insured(s)" listed herein that an examination of title to the premises described in Schedule A has been made in accordance with its usual procedure and agrees to issue its standard form of title insurance policy authorized by the Insurance Department of the State of New York, in the amount set forth herein, insuring the interest set forth herein, and the marketability thereof, in the premises described in Schedule A, after the closing of the transaction in conformance with the requirements and procedures approved by the Company and after the payment of the premium and fees associated herewith excepting (a) all loss or damage by reason of the estates, interests, defects, objections, liens, encumbrances and other matters set forth herein that are not disposed of to the satisfaction of the Company prior to such closing or issuance of the policy (b) any question or objection coming to the attention of the Company before the date of closing, or if there be no closing, before the issuance of the policy.

This Agreement to insure shall terminate (1) if the prospective insured, his or her attorney or agent makes any untrue statement with respect to any material fact or suppresses or fails to disclose any material fact or if any untrue answers are given to material inquiries by or on behalf of the Company; or (2) upon the issuance of title insurance in accordance herewith. In the event that this Certificate is endorsed and redated by an authorized representative of the Company after the closing of the transaction and payment of the premium and fees associated herewith, such "redated" Certificate shall serve as evidence of the title insurance issued until such time as a policy of title insurance is delivered to the insured. Any claim made under the redated Certificate shall be restricted to the conditions, stipulations and exclusions from coverage of the standard form of title insurance policy issued by the Company.

**Countersigned*****Authorized Signatory***Joseph DeSalvo  
Vice President & Branch Counsel**First American Title Insurance Company of New York*****President***

By:

James M. Orphanides



**First American Title Insurance Company of New York**  
**188 East Post Road, 4th Floor, White Plains, NY 10601**  
**(914) 428-3433 - Fax (914) 428-0159**

For your convenience, the following are members of our staff who are able to assist you with all title matters:

**WHITE PLAINS BRANCH OPERATIONS**

<b><u>BRANCH OPERATIONS</u></b>	<b><u>DIRECT DIAL</u></b>	<b><u>DIRECT FAX</u></b>	<b><u>E-MAIL ADDRESS</u></b>
<b><u>CUSTOMER SERVICE</u></b>			
Beth Brucaliere	(914) 286-6436	(212) 331-1672	bbrucaliere@firstam.com
Nancy Belfatto	(914) 286-6437	(212) 331-1407	nbelfatto@firstam.com
Cynthia Sullivan	(914) 286-6439	(212) 331-1421	casullivan@firstam.com
Doris Lim	(914) 286-6419	(212) 331-1617	dlim@firstam.com
Georgia Brown	(914) 286-6485	(212) 331-1478	ghbrown@firstam.com
Erin Clark	(914) 286-6491	(212) 331-1543	emclark@firstam.com
Mary Joy Hughes	(914) 286-6452	(212) 331-1447	marhughes@firstam.com
Melissa Blacknick	(914) 286-6429	(212) 331-1480	mblacknick@firstam.com
Claire Mione	(914) 286-6479	(212) 331-1500	cmione@firstam.com
<b><u>ESCROW</u></b>			
Barbara Carroll	(914) 286-6423	(212) 331-1412	bcarroll@firstam.com
Deildre Randolph	(914) 286-6422	(212) 331-1630	drandolph@firstam.com
Joy Findley	(914) 286-6482	(212) 331-1531	jfindley@firstam.com
Wendy Terjeson	(914) 286-6459	(212) 331-1423	wterjeson@firstam.com
<b><u>CLOSINGS</u></b>			
Carmen Casilla	(914) 286-6450	(212) 331-1431	ccasilla@firstam.com
Jackie Hattar	(914) 286-6427	(212) 331-1660	jhattar@firstam.com
Rosa Arias	(914) 286-6443	(212) 331-1594	rarias@firstam.com
<b><u>RECORDINGS</u></b>			
Jennifer Noto, Vice President & Senior Title Officer	(914) 286-6416	(212) 331-1623	jnoto@firstam.com
Cristina Liantonio	(914) 286-6444	(212) 331-1667	cliantonio@firstam.com
Elizabeth Lozado	(914) 286-6455	(646) 487-1354	elozado@firstam.com
Rouslie Alequin-Alicea	(914) 286-6464	(212) 331-1437	ralequin@firstam.com
<b><u>POLICIES</u></b>			
Virginia Falzarano	(914) 286-6426	(212) 331-1474	vfalzarano@firstam.com
<b><u>LEGAL DEPARTMENT</u></b>			
Jean M. Partridge, Senior Vice President & Branch Counsel	(914) 286-6413	(212) 331-1625	jpartridge@firstam.com
Joseph DeSalvo, Vice President & Counsel	(914) 286-6415	(212) 331-1455	jdesalvo@firstam.com
Paula Klein, Vice President & Counsel	(914) 286-6417	(212) 331-1615	pklein@firstam.com
Robert Keppler, Senior Title Officer	(914) 286-6418	(212) 331-1666	rkeppler@firstam.com
Robert W. Solinski, Chief Counsel	(914) 286-6411	(212) 331-1635	rsolinski@firstam.com

**For closing charges please call Customer Service or your salesperson**

**First American Title Insurance Company of New York****188 East Post Road, 4th Floor  
White Plains, New York 10601****Phone: (914) 428-3433  
Fax: (914) 428-0159****TITLE NUMBER:** 3004-64437  
**APPLICATION DATE:**  
01/27/2005  
**AMENDED DATE:** 02/10/2005**SUBMITTED BY:** WP House Accounts  
**REPORT DATE:** 02/09/05**TYPED BY:** Innocenta  
Savundranayagam**APPLICANT:**Charles E. Brodsky, Esq.  
234 Nassau Street, 2nd Floor  
Princeton, NJ 08542  
Phone #(609) 430-3044  
Fax #(609) 430-3058  
**REF:****BANK ATTORNEY:****SELLER'S ATTORNEY:****ADDITIONAL COPIES:**David B. Grodnick, Esq.  
General Land Abstract Co., Inc.  
2 Research WayPrinceton, NJ 08540  
609-951-9500  
609-951-0044  
FILE NUMBER GLA P1365Kathleen Pridy  
QuickChek  
3 Old Highway  
PO Box 600  
Whitehouse Station, NJ 08889-0600  
908-534-2200  
908-534-9216**TRANSACTION TYPE:**

Search Package

**AMOUNT OF INSURANCE:****FEE:** \$ 0.00**MTGE:** \$**INSURED MORTGAGEE:** , its successors and/or assigns as their interest may appear**INSURED FEE:****RECORD OWNER:** Frank P. Antonelli, Sr. and John R. Antonelli**PREMISES:** 170 Windsor Highway,  
New Windsor, New York

DISTRICT	SECTION	BLOCK	LOTS	COUNTY OF:	TOWN:
	12	1	49	Orange	New Windsor

**FILED MAP:****APP DESC:****UNIT #:****SURVEY INSTRUCTIONS:*****IF THIS IS A REFINANCE WITHIN TEN YEARS, YOU MAY BE ENTITLED TO A REDUCED PREMIUM. CONTACT THIS COMPANY IMMEDIATELY FOR DETAILS.*****Order Confirmation****-SEE ATTACHED PRELIMINARY INVOICE FOR LIST OF CHARGES AND MUNICIPAL SEARCHES ORDERED-**

**First American Title Insurance Company of New York**

188 East Post Road, 4th Floor

White Plains, NY 10601

Phone: (914) 428-3433 / Fax: (914) 428-0159

PR: NYORK

Ofc: 3004

**Invoice**

**To:** Charles E. Brodsky, Esq.  
234 Nassau Street, 2nd Floor  
Princeton, NJ 08542

**Invoice No.:** 200415863  
**Date:** 01/27/2005  
**Our File No.:** 3004-64437  
**Title Officer:** Joseph DeSalvo, Esq. / JDESALVO  
**Escrow Officer:** WPO Clearance / WPOCLEAR  
**Customer ID:** CEB110304

**Attention:****Your Reference No.:**

**RE:** **Property:**  
170 Windsor Highway, New Windsor, NY

**Liability Amounts**  
**Owners:**  
**Lenders:**

**Buyers:**

**Sellers:** Frank P. Antonelli, Sr., John R. Antonelli

Description of Charge	Invoice Amount
Title Examination	\$525.00

**INVOICE TOTAL** **\$525.00**

**Comments:**

**Thank you for your business!**

*To assure proper credit, please send a copy of this Invoice and Payment to:  
Attention: Accounts Receivable Department*

**First American Title Insurance Company of New York**

Proposed Insured

Purchaser:

Mortgagee: , its successors and/or assigns as their interest  
may appear

Title No.:

3004-64437

Effective Date:

01/04/2005

Redated:

Amount of Insurance:

Fee: \$0.00

Mortgage: \$0.00

THIS COMPANY CERTIFIES that a good and marketable title to the premises described in Schedule "A", subject to the liens, encumbrances and other matter, if any, set forth in this certificate may be conveyed and or mortgaged by:

**FRANK P. ANTONELLI, SR. and JOHN R. ANTONELLI**

who acquired title by the following deeds:

1. deed made by Archie P. Antonelli, as executor of the Last Will and Testament of Louis Antonelli, who died October 18, 1976 to Archie P. Antonelli, Joseph Antonelli, Frank Antonelli and John R. Antonelli and recorded October 2, 1978 in Liber 2111 page 837.
2. deed made by Archie P. Antonelli to Joseph Antonelli, Frank Antonelli and John R. Antonelli dated August 25, 1978 and recorded October 2, 1978 in Liber 2111 page 841.
3. deed made by Joseph J. Antonelli, Sr. to Frank P. Antonelli, Sr. and John R. Antonelli dated November 7, 1986 and recorded November 17, 1986 in Liber 2608 page 202.

Premises described in Schedule "A" are known as:

Address: 170 Windsor Highway,  
New Windsor, New York

County: Orange

Town: New Windsor

District:

Section: 12

Block: 1

Lot: 49

**For any Title Clearance Questions  
on this Report please call  
Joseph DeSalvo, Esq.  
Sr. Vice President & Branch Counsel  
(914) 428-3433**





***First American Title Insurance Company of New York***

**Title No. 3004-64437**

**SCHEDULE "A"**

ALL that certain plot, piece or parcel of land, situate, lying and being in the Town of New Windsor, County of Orange, State of New York being more particularly bounded and described as follows:

BEGINNING at the corner formed by the intersection of the northeasterly line of Union Avenue and the northwesterly line of Windsor Highway as shown on "Subdivision of Antonelli lands, located in the Town of New Windsor, Orange County, N.Y." revised July 19th, 1940 Theodore Jargsorf, Surveyor, filed in the Orange County Clerk's Office on July 31, 1940 as Map No. 1180 Vol. No.1 (New Windsor Maps), page 62;

RUNNING THENCE along said northwesterly line of Windsor Highway North 38 Degrees 25' East 282.75 feet to a point at the southwesterly line of Lot No. 4 as shown on said map;

THENCE along the southwesterly line of Lots 4,5,55,54,53,52 and 51, a distance of 400 feet more or less to the most easterly corner of lands now or formerly of Central Hudson Gas and Electric Corporation as described in Parcel No. 1 in Deed Liber 1311 page 390.

THENCE along the southeast line of said lines South 37 Degrees 30' West 100 feet to a point;

THENCE continuing along same, South 37 Degrees 36' West 275.4 feet to a point on the northeasterly line of Union Avenue aforesaid;

THENCE along the northeasterly line of Union Avenue as shown on the aforesaid maps a total distance of 400 feet more or less to the point or place of BEGINNING.

EXCEPTING THEREFROM so much as was take by Notice of Appropriation recorded in Liber 1525 page 123 and Liber 2496 page 55.

THE policy to be issued under this report will insure the title to such buildings and improvements erected on the premises, which by law constitute real property.

**FOR CONVEYANCING ONLY: TOGETHER** with all the right, title and interest of the party of the first part, of in and to the land lying in the street in front of and adjoining said premises.

***First American Title Insurance Company of New York***

Title No. 3004-64437

**SCHEDULE "B"  
(EXCEPTIONS)**

**THE POLICY WILL INCLUDE AS EXCEPTIONS TO TITLE THE FOLLOWING MATTERS UNLESS THEY ARE DISPOSED OF TO THE SATISFACTION OF THE COMPANY:**

1. Rights of tenants or persons in possession, if any.
2. Taxes, tax liens, tax sales, water rates, sewer rents and assessments set forth herein.
3. Any state of facts which a guaranteed survey of current date would disclose.  
  
The exact location, courses, distances and dimensions of the premises described in Schedule A are not insured without a survey thereof acceptable to this Company.
4. There (is) are one (1) open mortgage(s) of record. (See post)
5. Searches, including judgments, federal tax liens and bankruptcies have been run against Frank P. Antonelli, Sr., the certified owner(s) herein and the following must be disposed of: no returns - bankruptcy searches not ordered
6. Searches, including judgments, federal tax liens and bankruptcies have been run against John R. Antonelli, the certified owner(s) herein and the following must be disposed of: One (1) judgments (Exhibit A) bankruptcy not ordered
7. Proof is required to show that Frank P. Antonelli, Sr. has(have) not been known by any other name(s) in the 10 years last past. If that(those) person(s) has(have) been known by another name(s), such name(s) must be submitted to the Company in advance of closing to be run for bankruptcies and liens and title is subject to returns, if any.
8. Proof is required that the person(s) executing the closing instruments is (are) the same person(s) as the grantee(s) in the deed recorded in Liber 2111 page 837, Liber 2111 page 841 and Liber 2608 page 202.
9. Proof is required that Frank P. Antonelli, Sr. one of the grantees in the deed recorded in liber 2608 page 202 is one and the same person as Frank Antonelli, one of the grantees in the deed recorded in liber 2111 page 841 and liber 2111 page 837.
10. Proof is required that Joseph J. Antonelli, Sr. the grantor in the deed recorded in Liber 2608 page 202 is one and the same person as Joseph Antonelli, one of the grantees in the deed recorded Liber 2111 page 837 and Liber 2111 page 841.
11. Mortgage Liber 2456 page 198 is held of record by a non-institutional lender. Documents required of said lender, such as a satisfaction, assignment or instrument of subordination, must be delivered to Counsel for the Company at or prior to closing. The original note and mortgage must also be delivered if the mortgage is to be satisfied or assigned.

***First American Title Insurance Company of New York***

Title No. 3004-64437

**SCHEDULE B Continued****THE FOLLOWING ARE REQUIREMENTS TO BE COMPLIED WITH FOR A TITLE POLICY TO ISSUE:**

12. Life estate reserved to Columbia Antonelli pursuant to paragraph Third of the Last Will and Testament of Louis Antonelli Orange County Surrogate's Court index number 990/76, in which Archie, Joseph, Frank and John Antonelli are specific devisees to the premises described in schedule "A" herein subject to the right of Columbia Antonelli to live there for the rest of here life.
13. Utility Agreement Liber 1158 page 142 and Liber 1408 page 51. (Exhibit B)
14. Easement for Public Sewer Liber 1776 page 590 (Exhibit C)
15. Notice of Appropriation recorded in Liber 1525 page 123 and Liber 2496 page 55. (Exhibit D)
16. This search has been issued only for the benefit of the applicant to whom the search is addressed. Liability for the search and the information provided herein, whether based on contract or negligence, shall not exceed \$1,000.00.

TITLE NO. 0380-300464437 TX

**ABSTRACTERS' INFORMATION SERVICE, INC.**138-72 QUEENS BOULEVARD BRIARWOOD, N.Y. 11435  
(718) 291-5900 (516) 742-2290 (914) 761-4451 FAX (718) 291-6681**ORANGE COUNTY TAX SEARCH**

DATE: 1/27/2005

PREMISES: 170 WINDSOR HIGHWAY, NEW WINDSOR

TOWN OF NEW WINDSOR

ASSESSED OWNER: ANTONELLI SR FRANK P JOHN R

ASSESSED VALUE: TOWN

66300/179700

TAX CLASSIFICATION: 485

SD: NEWBURGH CENTRAL SECTION: 12 BLOCK: 1 LOT: 49**RETURNS**

SEC: 12 BLOCK: 1 LOT: 49

2005 TOWN/COUNTY TAX PERIOD 1/1-12/31

FULL TAX \$10,568.76 OPEN DUE 1/1

2004/2005 SCHOOL TAX PERIOD 7/1-6/30

1 1/3 TAX \$6,343.94 PAID DUE BY 10/8

2 1/3 TAX \$6,343.92 PAID DUE BY 12/8

3 1/3 TAX \$6,343.92 OPEN DUE BY 3/8

BILL #15120

WATER - MUNICIPAL

NOTE: UP-TO-DATE BILL OR RECEIPT MUST BE PRODUCED AT CLOSING. SUBJECT TO PRIOR WATER/SEWER CHARGES NOT ENTERED AND SUBSEQUENT WATER CHARGES SINCE DATE OF LAST READING.

SUBJECT TO CONTINUATION PRIOR TO CLOSING.

AFFIDAVIT SHOULD BE TAKEN AT CLOSING THAT OWNER HAS NOT RECEIVED NOTICE OF SPECIAL ASSESSMENTS (I.E., SIDEWALK REPAIRS, LOT CLEARANCE, OR EMERGENCY REPAIRS). TAX SEARCH DOES NOT GUARANTEE AGAINST EXISTENCE OF SUCH NOTICES. TAX DUE DATES MAY VARY ANNUALLY. PLEASE CONFIRM DUE DATES WITH THE APPROPRIATE MUNICIPALITY.

SEARCH DOES NOT GUARANTEE AGAINST ITEMS NOT A LIEN UP TO THE DATE SHOWN. SOME OF THE ITEMS RETURNED MAY HAVE BEEN PAID BUT NOT OFFICIALLY POSTED. RECEIPTS FOR SUCH ITEMS SHOULD BE PRODUCED AT CLOSING. SEARCH DOES NOT GUARANTEE AGAINST CLAIMS RESULTING FROM LEVIES OF RESTORED TAXES. SEARCH DOES NOT GUARANTEE FOR ARREARS FILED AGAINST ANY NAME OTHER THAN THE ASSESSED OWNER AS SHOWN ABOVE. THIS SEARCH IS PREPARED EXCLUSIVELY FOR FIRST AMERICAN TITLE ON 1/27/2005. 0380-300464437



***First American Title Insurance Company of New York***

**Title No. 3004-64437**

**MORTGAGE SCHEDULE**

**MORTGAGE A:**

**Mortgage made by Frank P. Antonelli, Sr. and John R. Antonelli to Joseph J. Antonelli, Sr. in the amount of \$200,000.00 dated November 13, 1986 and recorded November 17, 1986 in Liber 2456 page 198. Mortgage tax paid \$2,000.00**

**THIS MORTGAGE CAN BE ASSIGNED OR SATISFIED BY:  
JOSEPH J. ANTONELLI, SR.**

This title report does not show all the terms and provisions of the mortgage(s) set forth herein. Interested parties should contact the holder(s) thereof to ascertain the terms, covenants and conditions contained therein, and to determine if there are any unrecorded amendments or modifications thereto.

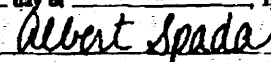
## TRANSCRIPT OF JUDGMENT

ULSTER COUNTY CLERK'S OFFICE

JUDGMENT DEBTOR				JUDGMENT CREDITOR	Attorney for Judgment Creditor Name and Address
Surname	Given Name	Trade or Profession	Last Known Address	Name and Address	
ANTONELLI	JOHN J.		43 HILLSIDE AVENUE NEW WINDSOR, NY 12553	ROUNDOUT VALLEY CAMPGROUNDS JOINT VENTURE P.O. BOX 25 ACCORD, NY 12404	SPIEGEL, PERGAMENT & BROWN 272 MILL STREET P.O. BOX 831 POUGHKEEPSIE, NY 12602-0831
ANTONELLI	ELLEN L.		43 HILLSIDE AVENUE NEW WINDSOR, NY 12553		

JUDGMENT DOCKETED	JUDGMENT RENDERED		AMOUNT OF JUDGMENT	Remarks: Date and manner of change of status of judgment.
Date	Court	City, Town or Village		
	SUPREME	-----	Damages \$ 3,075.44	
8/31/94	County	ULSTER	INTEREST 494.76	
	Index No.	JU 94-213	Costs \$ 456.33	
Hr. and Min.	Date		FEES 615.09	
1:52 PM	8/31/94		Total \$ 4,641.62	
	Hr. and Min.	1:52 PM		

EXECUTION	SATISFIED	
Returned Unsatisfied	When	How and to What Extent

STATE OF NEW YORK  
COUNTY OF ULSTERI, ALBERT SPADA, Clerk of the County of Ulster, hereby certify  
that the above is a correct transcript from the docket of judgments in my office.IN TESTIMONY WHEREOF, I have hereunto set my name (and  
affixed my official seal) this 28TH day of DECEMBER 19 94
  
 County Clerk

SUPREME COURT

Court

City, Village or Town

ULSTER COUNTY

County

State of New York

RONDOUT VALLEY CAMPGROUNDS  
JOINT VENTURE

Judgment Creditor

against

JOHN J. ANTONELLI AND  
ELLEN L. ANTONELLI

Judgment Debtor

TRANSCRIPT OF JUDGMENT

Filed AUGUST 31, 19 94

at 1:52 o'clock P M.

ORANGE COUNTY CLERKS OFFICE 954 LAL  
RECORDED/FILED 01/06/95 02:51:40 PM

FEE\$

10.00  
Spiegel & C

AUG 07 05 04:00P

Charles E. Brodsky

609-130-3058

P. 14

1158cc 142 Rm 512/50  
NW 4492 TO Bldg 18930 Wb 5500

142

For consideration of the sum of One Dollar (\$1.00) and other valuable consideration, the receipt whereof from Central Hudson Gas and Electric Corporation, a domestic corporation having its principal office (residence) at South Road (no street number), Poughkeepsie, New York, AND **NEW YORK TELEPHONE CO.**, a domestic Corporation having its principal office (residence) at **140 WEST STREET, NEW YORK, N.Y.** is hereby acknowledged, the undersigned hereby grant(s) and convey(s) unto said corporation(s), and each of them, their respective successors, assigns and lessees, an easement and right of way in upon over, under and across the lands of the undersigned including roads and highways thereon and adjacent thereto, situated in the **TOWN** of **NEW WINDSOR** County of **ORANGE** State of New York.

Said easement and line shall extend from the property line of \_\_\_\_\_ on the \_\_\_\_\_ direction to the property line of \_\_\_\_\_ on the **FOR INSTALLATION OF A POLE 14' IN NORTH WESTERLY DIRECTION FROM POLE #W18930 ON WINDSOR HIGHWAY.**

Together with the right at all times to enter thereon and have access thereto and to construct, relocate, upgrade and maintain thereon and to repair, protect and restore a line of poles, cables, drop wires, guy wires, underground conduits and all other appurtenances and fixtures adapted to the present and future needs, uses and purposes of said corporation(s), their respective successors, assigns and lessees.

Together with the right also to attach guy wires to trees on said property, and to trim, cut and remove trees and other objects thereon so as to provide a clearance of \_\_\_\_\_ feet from the wires of said corporations.

The exact location of said easement and line is to be as determined by said corporations having regard to the origin, general direction and destination of said line and the requirements of said corporations. If such line hereafter materially interferes with any new use to which the land of the undersigned may subsequently be devoted, the Corporations will, on reasonable notice, and on being given without cost a new easement and right of way, satisfactory in form to them, for a substitute location reasonably suitable for their requirements, remove such line to such substitute location, but only one such removal may be required.

Central Hudson Gas & Electric Corporation AND **NEW YORK TELEPHONE CO.** shall reimburse the undersigned for any damage to his—her—their—its property caused solely by the said Corporations in repairing the line to be located on this easement.

The provisions hereof shall inure to and bind the heirs, legal representatives, successors, assigns and lessees of the undersigned and of said corporation(s) respectively.

Signed, sealed and delivered, on **April 27, 1962** **Louis Cantorelli** (L.S.)

In the presence of \_\_\_\_\_ (L.S.)

Residing at **New Windsor Windsor Highway** Number \_\_\_\_\_ Street \_\_\_\_\_ Town, City or Village \_\_\_\_\_ County \_\_\_\_\_ State \_\_\_\_\_

\* Put in number, street and city, town or village. If no street number, put "no street number" and name of street. (Over the Acknowledgment) \* If no street number put "none"

A true copy



In consideration of the sum of \$ 2.00 and other valuable considerations, the receipt whereof from Central Hudson Gas & Electric Corporation, a domestic corporation having its principal office (residing) at South Road (no street number), Poughkeepsie, New York, AND New York Telephone Company, a domestic corporation having its principal office (residing) at 140 West Street, New York, New York, I hereby acknowledge, this and of and thereby grant, convey (s) unto said corporation(s), and each of them, their respective successors, assigns and licensees, an easement and right of way, feet in width throughout its extent, in, upon, over, under and across the lands of the undersigned, including roads and highways thereon and adjacent thereon, situated in the Town of New Windsor, County of Orange, State of New York.

Said easement and right of way shall be used for the installation of utility cables and anchor guys on underground property on which said easement is located, and for the installation of utility cables and anchor guys on underground property on which said easement is located, and for the installation of utility cables and anchor guys on underground property on which said easement is located.

Together with the right at all times to enter thereon and to have access thereon and to construct, relocate, operate and maintain, and to repair, replace, protect and remove, lines of poles, cables, crossarms, wires, guys, braces, underground conduits and all other appurtenances and fixtures adapted to the present and future needs, uses and purposes of said corporation(s), their respective successors, assigns and licensees.

Together with the right also to trim, cut and remove at any time such trees and other objects thereon and on adjacent property of the undersigned, as in the judgment of said corporation(s), their respective successors, assigns and licensees, may interfere with, obstruct or hinder the construction, operation or maintenance of said right, lines and fixtures, or may otherwise be detrimental to the same.

The exact location of said easement and lines is to be as determined by said corporation(s) having regard to the origin, general direction and destination of said lines and the requirements of said corporation(s).

Reserving unto the undersigned the right to cultivate the ground between said poles and beneath said wires and fixtures, provided that such use of said ground shall not interfere with, obstruct or endanger any of the rights granted as aforesaid and provided that no building or other structure shall be erected within the limits of the right of way without the written consent of said corporation(s); and provided that damage to the property owned by the undersigned caused solely by said corporation(s), their respective successors, assigns or licensees, in installing or repairing said lines shall be adjusted at the expense of said corporation(s), their respective successors, assigns or licensees.

The provisions hereof shall serve to bind the heirs, legal representatives, successors, assigns and licensees of the undersigned and said corporation(s) respectively.

Signed, sealed and delivered, on October 23, 1956, *Louis Antomella*

In the presence of: *Howard V. Hewitt*

Residing at (home) Windsor Highway - Route 22, New Windsor - Orange - New York

# INDIVIDUAL ACKNOWLEDGMENT STATE OF NEW YORK

County of Orange

On this 23 day of October, 1956, before me, the subscriber, personally appeared Louis Antomella, to me personally known and known to me to be the individual(s) described in and who executed the foregoing instrument, and he (several) fully acknowledged to me that he (several) executed the same.

*Howard V. Hewitt*  
Notary Public  
My Comm. Ex. to the State of New York  
Issued at Poughkeepsie, Orange Co., N.Y.  
On Christmas Eve, March 1, 1957

A true record entered November 16th, 1956 at 9:00 A.M.

*Richard M. ...* Clerk

**PREVIOUS  
DOCUMENTS  
IN POOR  
ORIGINAL  
CONDITION**

1776 - 590

EASEMENT FOR PUBLIC SEWER

In consideration of the sum of One Dollar (\$1.00) lawful money of the United States, the receipt whereof is hereby acknowledged, the undersigned, LOUIS ANTONELLI, residing at (no number) Windsor Highway, Town of New Windsor, Orange County, New York, hereinafter called "Grantor," hereby grants unto the TOWN OF NEW WINDSOR, a municipal corporation having its principal offices at 244 Union Avenue, Town of New Windsor, Orange County, New York, hereinafter called "Grantee," for the use of Hillside Sewer District #12, a perpetual right of way over a strip of land 20 feet in width to enter upon and lay, install, operate, maintain and replace a pipe, manhole or manholes and appurtenances for conveying sewage in, on, over, through and under the property of the Grantor, situated in the Town of New Windsor, Orange County, New York, the center line of which is more particularly described as follows:

BEGINNING at a point in the southerly line of Hillside Avenue, N 49° 02' W, 99'+ from the northwesterly corner of lands now or formerly of Joseph Antonelli, and running thence S 38° 52' W, 263'+ to a point marking the side of a proposed manhole; thence S 1° 10' E, 198'+ to a point in the northerly line of Union Ave., (Co. RD. #59), 114'+ northwest of the intersection of said northerly line of Union Ave. and the westerly line of N.Y.S. Route 32 (S.M. 9033).

All of which is shown on Map No. 3 of Sewer District #12 prepared by Herbert L. Kartiganar, P.E.L.S., dated June 13, 1967, revised July 27, 1967, a copy of which is hereto attached.

The Grantor, his heirs and assigns, upon written notice to the Grantee, shall have the right to construct and erect buildings and other structures over, under and around the said sewer pipe line and laterals so long as the same are constructed with good engineering principles so as to avoid undue weight and strain on said sewer pipe lines and laterals, and so as to give reasonable access for the operation, maintenance, repair and replacement of said sewer pipe lines, laterals and manholes.

1776 - 590 Rec 9/3/67 C

The Grantor reserves the right to use and enjoy the said premises, except for the rights and privileges herein described and granted, provided that such use shall not interfere with or cause injury or damage to the said sewer line or appurtenances thereto.

This grant is made upon the express conditions and reservations which shall continue and run with the land.

(a) That the Grantee shall, at its own cost and expense after completion of the original construction or the completion of future repairs to the sewer line, restore the surface of said lands and premises to substantially the same condition as before such construction or repairs.

(b) That the sewer line and appurtenances placed in or under said right of way shall, at all times, remain the property of the Grantee and under its control and supervision and the Grantor shall not interfere with or cause injury or damage to said sewer line or appurtenances.

This grant shall be binding upon the Grantor and the Grantee and their respective distributees, personal representatives, successors and assigns.

TO HAVE AND TO HOLD the right herein granted unto the GRANTEE forever.

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal the 1 day of Aug., 1967.

*Louis Antonelli* L.S.

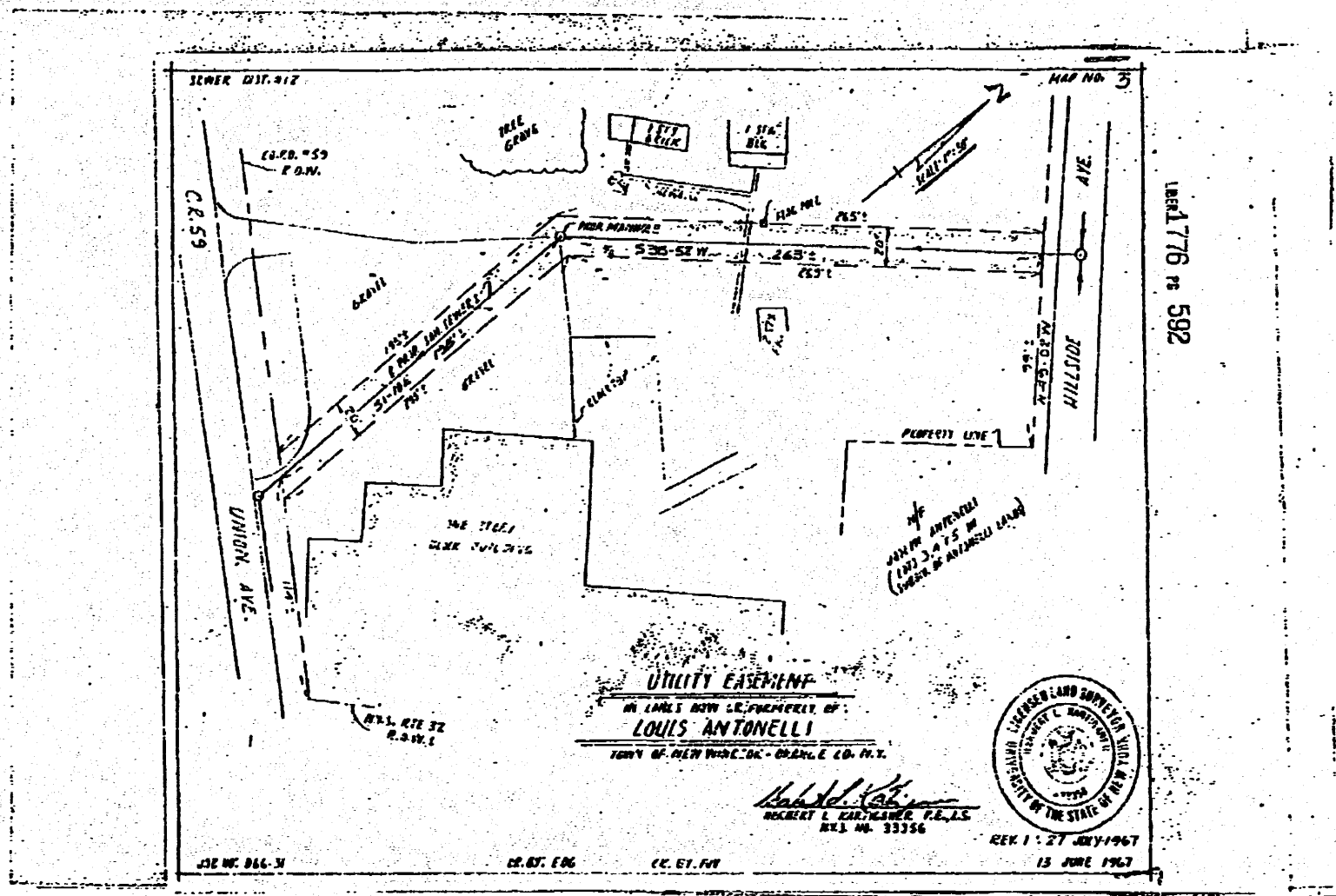
STATE OF NEW YORK: ss.  
COUNTY OF ORANGE :



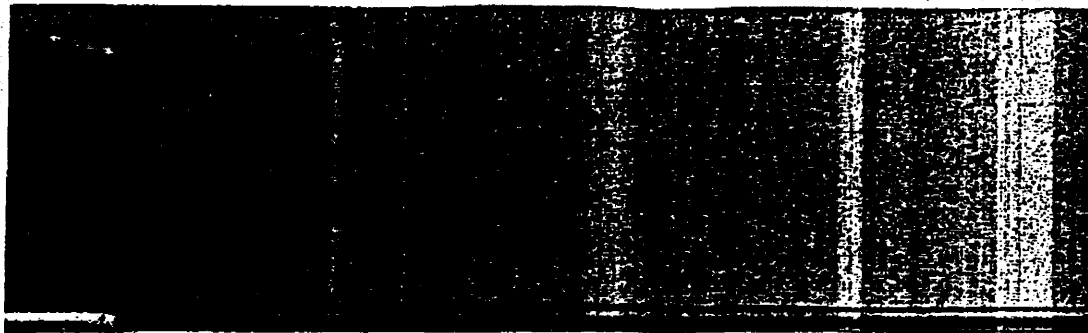
On this 1 day of Aug., 1967, before me personally JOSEPH ANTONELLI, to me known and known to me to be the person described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.

1776 PG 591

*Joseph Mitchell*  
Comm. Exp. Jan 21, 1969







NEW 98-82a (11/84)  
(Section a)

NEW YORK STATE DEPARTMENT OF TRANSPORTATION  
REAL ESTATE DIVISION

APPROPRIATION OF PROPERTY BY THE PEOPLE OF THE STATE OF NEW YORK

034139

PROJECT: PTH 8450.21-201, PROJ. 8400

S.E. NO. 5003  
TALLS GATE-WINDSOR CITY LINE  
ORANGE COUNTY  
TOWN OF NEW WINDSOR

DESCRIPTIONS AND MAPS  
MAP NO. 51 PARCEL NO. 60

NOTICE OF APPROPRIATION

Pursuant to the statute set forth in the above descriptions and maps

TO:

JOSEPH ANTONELLI - 170A Windsor Highway, New Windsor, NY 12550  
FRANK ANTONELLI  
JOHN L. ANTONELLI  
THE FIRST NATIONAL BANK OF HIGHLAND - 34 Milton Avenue, Highland, NY 12550  
COLAMBIA ANTONELLI - 170A Windsor Highway, New Windsor, NY 12550  
NEW YORK TELEPHONE COMPANY - 1095 Avenue of the Americas, New York, NY 10036  
ANTONELLI'S TIRE SERVICE - 170A Windsor Highway, New Windsor, NY 12550  
This notice that on the 7th day of March, 1986, there was filed in the office of the Department of State a certified copy of each of the above designated descriptions and maps of property; and that on the 7th day of March, 1986, there was filed in the office of the clerk of the County, in which such property is situated, a copy of each of such descriptions and maps.

THEY FURTHER NOTICE that title to the property, easements, interests or rights described in said descriptions and maps vested in The People of the State of New York upon such filing in the office of said county clerk.

Orange County Clerk's Office, N.Y.

Filed on the 7th day of March, 1986

Witness my hand and the seal of said County in New Windsor, NY, on the 7th day of March, 1986.

and Essex.

*Muir S. Murphy*  
Clerk

COMMISSIONER OF TRANSPORTATION

Office of the Commissioner of Transportation

Office of the Commissioner of Transportation

Office of the Commissioner of Transportation

Office of the Commissioner of Transportation

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Office of the Commissioner of Transportation

2496 p 55 Rec 3/31/86

CONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT - THIS INSTRUMENT SHOULD BE USED BY LAWYERS ONLY.

056138

THIS INDENTURE, made the 7th day of November, nineteen hundred and eighty-six  
 BETWEEN JOSEPH J. ANTONELLI, SR., 3 Buckingham Court, Levitt Park,  
 Rockledge, Florida 32955

party of the first part, and FRANK P. ANTONELLI, SR., 360 Union Avenue, New Windsor,  
 New York 12550 and JOHN R. ANTONELLI, 34 O'Dell Circle, Newburgh, New York 12550

party of the second part.

WITNESSETH, that the party of the first part, in consideration of

TEN AND NO/100 (\$10.00) \_\_\_\_\_ dollar,

lawful money of the United States, \_\_\_\_\_ paid

by the party of the second part, does hereby grant and release unto the party of the first part, the heirs or successors  
 and assigns of the party of the second part forever.

**PARCEL ONE**

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and

being in the Town of New Windsor, County of Orange, State of New York being more  
 particularly bounded and described as follows:

BEGINNING at the corner formed by the intersection of the northeasterly line of  
 Union Avenue and the northwesterly line of Windsor Highway as shown on "Subdivision  
 of Antonelli Lands, located in the Town of New Windsor, Orange County, N.Y."  
 revised July 19th, 1940 Theodore Jargorff, Surveyor, filed in the Orange County  
 Clerks Office on July 31, 1940 as Map #1180 Vol #1 (New Windsor Maps), pg 62.

Running thence along said Northwesterly line of Windsor Highway North 36°25' East  
 282.75 ft to a point at the Southwesterly line of Lot No. 4 as shown on said Map.

Thence along the Southwesterly line of Lots 4, 5, 55, 54, 53, 52 and 51, a distance  
 of 400 ft more or less to the most easterly corner of lands W/Y of Central Hudson  
 Gas and Electric Corporation as described in Parcel No 1 in Deed Liber 1311 Cp 398.

Thence along the southeast line of said lines South 37°30' west 100 ft to a point.

Thence continuing along same South 37°36' west 275.4 ft to a point on the  
 northeasterly line of Union Avenue aforesaid.

Thence along the northeasterly line of Union Avenue as shown on the aforesaid  
 maps a total distance of 400 ft more or less to the point or place of beginning.

Being a portion of the same premises as described in a deed made by John J. Clancy  
 to Achille Antonelli and Louis Antonelli dated 5/8/31, recorded 5/9/31 in Liber  
 717 Cp 519 Orange County Clerks Office.

Being a portion of the same premises as described in a deed made by Achille Antonelli  
 to Louis Antonelli dated 8/30/46 recorded 8/30/46 in Liber 1014 Cp 194 Orange County  
 Clerks Office.

ALSO BEING the same premises conveyed by deed dated August 25, 1978 Archie P.  
 Antonelli to Joseph Antonelli, Frank Antonelli and John R. Antonelli recorded in  
 Orange County Clerks Office October 2, 1978 in Liber 2111 of deeds at page 841.  
 Frank Antonelli the grantee in the aforesaid deed and Frank P. Antonelli Sr., one  
 of the grantees herein are the same person.

25208 N 212

12-1-79

PG

id



PARCEL TWO

12-1-27

ALL that certain plot, piece or parcel of land with the buildings and improvements thereon erected, situate, lying and being in the Town of New Windsor, County Of Orange, State of New York more particularly bounded and described as follows:

BEING Lots 53, 54 and 55 on map entitled "Subdivision Antonelli Lands revised July 1940 by Theodore Jorgstorf, and filed as Map No. 1180 in the Orange County Clerks Office.

PRIOR

REF 2608 76 203

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof.  
TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises,  
TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

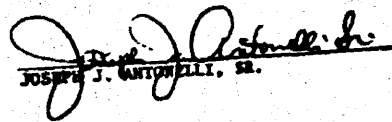
AND the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been incumbered in any way whatever, except as aforesaid.

AND the party of the first part, in compliance with Section 13 of the Linn Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

The word "party" shall be construed as if it read "parties" whenever the sense of this instrument so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

IN PRESENCE OF:

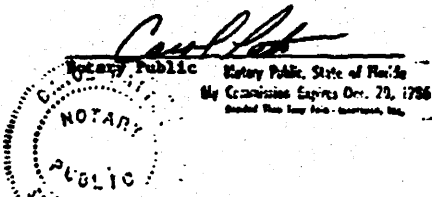
  
JOSEPH J. ANTONELLI, SR.

2608 76 204

FLORIDA  
STATE OF NEW YORK, COUNTY OF DECATUR

On the 7th day of November 19 86, before me  
personally came JOSEPH ANTONELLI SR.

to me known to be the individual described in and who  
executed the foregoing instrument, and acknowledged that  
he executed the same.



STATE OF NEW YORK, COUNTY OF

On the 7th day of November 19 86, before me  
personally came  
to me known, who, being by me duly sworn, did depose and say  
that he resides at No.

that he is the  
of

the corporation described  
in and which executed the foregoing instrument; that he knows  
the seal of said corporation; that the seal affixed to said instrument  
is such corporate seal; that it was so affixed by order of the board  
of directors of said corporation, and that he signed in name  
thereby by like order.

STATE OF NEW YORK, COUNTY OF

On the 7th day of November 19 86, before me  
personally came

to me known to be the individual described in and who  
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the seal of said corporation; that the seal affixed to said instrument  
is such corporate seal; that it was so affixed by order of the board  
of directors of said corporation, and that he signed in name  
thereby by like order.

**Bargain and Sale Deed**

WITH COVENANT AGAINST GRANTOR'S ACTS

This No. \_\_\_\_\_

SECTION

BLOCK

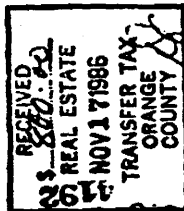
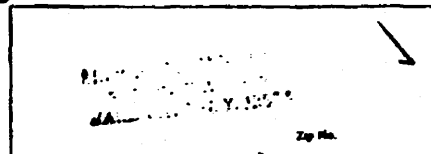
LOT

COUNTY OR TOWN

Recorded at Request of COMMONWEALTH LAND  
TITLE INSURANCE COMPANY

*CR+R*

RETURN BY MAIL TO:



2008 pg 205

Orange County Clerk's Office, n.s.

Recorded on this 17th day

of Nov 19 1986 at 12:00 PM

at the Office of the Clerk in Liberty

County, N.Y.

Not Examined

Witness *S. Murphy*



# Town of New Windsor

555 Union Avenue  
New Windsor, New York 12553  
Telephone: (845) 563-4615  
Fax: (845) 563-4689

## ZONING BOARD OF APPEALS

August 16, 2005

Bohler Engineering, P.C.  
776 Mountain Blvd.  
Watchung, NJ 07069

ATTN: JEFF MARTELL

SUBJECT: REQUEST FOR VARIANCE #05-54

Dear Mr. Martell:

This letter is to inform you that you have been placed on the August 22, 2005 agenda for the Zoning Board of Appeals to discuss your request for a variance at:

Corner NYS Rt. 32 & Union Avenue  
New Windsor, NY

This meeting starts at 7:30 p.m. and is held in the Town Meeting Room at Town Hall. If you have a problem with this time and/or date, please contact me at the above number and we will reschedule your appearance. If you have any further questions, please feel free to contact me.

Very truly yours,

---

Myra Mason, Secretary  
Zoning Board of Appeals

MLM:mlm

cc: Gibbons, DelDeo, Dolan Griffinger & Vecchione  
One Pennsylvania Plaza – 37<sup>th</sup> Floor  
New York, NY 10119-3701  
ATTN: HOWARD GENESLAW

Frank Antonelli  
360 Union Avenue  
New Windsor, NY 12553





**TOWN OF NEW WINDSOR  
ZONING BOARD OF APPEALS**



**APPLICATION FOR VARIANCE**

August 5, 2005

Date

Application Type: Use Variance ☐ Area Variance ☒  
Sign Variance ☒ Interpretation ☒

c/o Dan Lucia, Esq.

**I. Owner Information:**

John Antonelli & Frank Antonelli, Sr.

Phone Number: (845 ) 561-7700

Fax Number: (845 ) 562-7688

(Name) John Antonelli: 4 Cedar Court, Palm Coast, Florida 32137  
Frank Antonelli, Sr.: 360 Union Avenue, New Windsor, New York 12553

(Address)

**II. Applicant:**

Quick Chek Food Stores, Inc.

Phone Number: (908 ) 534-7156

Fax Number: (908 ) 534-7216

(Name) 3 Old Highway 28, P.O. Box 600, Whitehouse Station, New Jersey 08889

(Address)

**III. Forwarding Address, if any, for return of escrow: Phone Number: ( )**

Fax Number: ( )

(Name)

(Address)

**IV. Contractor/Engineer/Architect/Surveyor/:**

Phone Number (908 ) 668-8300

Fax Number: (908 ) 754-4401

Bohler Engineering, P.C. (Attn: Jeff Martell)

(Name)

776 Mountain Boulevard, Watchung, New Jersey 07069

(Address)

**V. Property Information:**

Zone: NC Property Address in Question: NYS Highway 32 at NW Corner of Union Ave.

Lot Size: 2.91 acres Tax Map Number: Section 12 Block 1 Lot 49

a. What other zones lie within 500 feet? R4 & C

b. Is pending sale or lease subject to ZBA approval of this Application? Yes

c. When was property purchased by present owner? November 7, 1986

d. Has property been subdivided previously? none known If so, When:

e. Has an Order to Remedy Violation been issued against the property by the  
Building/Zoning/Fire Inspector? None known

f. Is there any outside storage at the property now or is any proposed? No

\*\*\*\*PLEASE NOTE:\*\*\*\*

**THIS APPLICATION, IF NOT FINALIZED, EXPIRES ONE YEAR FROM THE DATE OF  
SUBMITTAL.**

**COMPLETE THIS PAGE ☐**

**TOWN OF NEW WINDSOR  
ZONING BOARD OF APPEALS**

**APPLICATION FOR VARIANCE - continued**

**VIII. AREA VARIANCE: (This information will be on your Building Department Denial form you receive)**

Area Variance requested from New Windsor Zoning Local Law, See attached Schedule

	<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Min. Lot Area	15,000 sf	126,928 sf	complies
Min. Lot Width	125'	286.3'	complies
Reqd. Front Yd.	40'	73.3' (canopy)	complies
Reqd. Side Yd.	15'/30'	74.2' (canopy)	complies
Reqd. Rear Yd.	15'	25' (car wash)	complies
Reqd. St Front*	N/A	N/A	N/A
Max. Bldg. Hgt.	23'	23'	complies
Min. Floor Area*	N/A	N/A	N/A
Dev. Coverage*	N/A	N/A	N/A
Floor Area Ratio**	.5	.08	complies
Parking Area	56 required	58 proposed	complies

\*Residential Districts Only

\*\*Non-Residential Districts Only

Radius Restriction - Variance requested, if deemed necessary by the Board of Appeals, to permit fuel sales within 1,000' of another gasoline facility (see Zoning Local Law Section 300-26.A.).

***PLEASE NOTE:***

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**COMPLETE THIS PAGE ☐**

**OWN OF NEW WINDSOR  
ZONING BOARD OF APPEALS**

**APPLICATION FOR VARIANCE - continued**

**X. SIGN VARIANCE:**

- (a) Variance requested from New Windsor Zoning Local Law,  
Section 300-45.A.(1)(b), Supplementary Sign Regulations  
300-45.A.(2)(a)

	<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
(1) Quick Chek Wall Sign	Sign #1 25 sf	70 sf	45 sf
(2) Freestanding Sign Route 32	Sign #2 64 sf	91.9 sf	27.9 sf
	Sign #3		
	Sign #4		

- (b) Describe in detail the sign(s) for which you seek a variance, and set forth your reasons for requiring extra or oversized signs.

(1) Quick Chek Wall Sign - This sign represents the standard corporate sign. The area of the sign permits motorists along Route 32 to easily identify the store as a Quick Chek.

See attached statement in support of variances.

(2) Freestanding Sign Route 32 - Increased area permits enhanced visibility along Route 32. Also permits space to identify all uses at site as well as price info for gas sales.

- (c) What is total area in square feet of all signs on premises including signs on windows, face of building and freestanding signs 285 sf excluding exempt ?  
informational signs

**XI. INTERPRETATION:**

- (a) Interpretation requested of New Windsor Zoning Local Law,  
Section 300-26.A.

- (b) Describe in detail the proposal before the Board:

Applicant seeks a declaration that the provision prohibiting a gasoline station from being located within 1,000 feet of another gasoline facility does not apply to convenience stores that sell gas

**PLEASE NOTE:**

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**COMPLETE THIS PAGE ☐**



**XII. ADDITIONAL COMMENTS:**

- (a) Describe any conditions or safeguards you offer to ensure that the quality of the zone and neighboring zones is maintained or upgraded and that the intent and spirit of the New Windsor Zoning Local Law is fostered. (Trees, landscaped, curbs, lighting, paving, fencing, screening, sign limitations, utilities, drainage.)

See statement in support of variances

**XIII. ATTACHMENTS REQUIRED:**

- f) single sheet of Site Plan
- ☐ Copy of contract of sale, lease or franchise agreement. Copy of deed and title policy.
  - ☐ Copy of site plan or survey (if available) showing the size and location of the lot, buildings, facilities, utilities, access drives, parking areas, trees, landscaping, fencing, screening, signs, curbs, paving and streets within 200 ft. of the lot in question.
  - ☐ Copies of signs with dimensions and location.
  - ☐ Three checks: (each payable to the TOWN OF NEW WINDSOR)
  - ☐ One in the amount of \$ 300.00 or 500.00 (escrow)
  - ☐ One in the amount of \$ 50.00 or 150.00 (application fee)
  - ☐ One in the amount of \$ 25.00 (Public Hearing List Deposit)
  - ☐ Photographs of existing premises (5 or 6) from several angles. (IF SUBMITTING DIGITAL PHOTOS PRINTED FROM COMPUTER - PLEASE SUBMIT FOUR (4) SETS OF THE PHOTOS.)

**XIV. AFFIDAVIT.**

STATE OF NEW YORK)

) SS.:

COUNTY OF ORANGE )

The undersigned applicant, being duly sworn, deposes and states that the information, statements and representations contained in this application are true and accurate to the best of his/her knowledge or to the best of his/her information and belief. The applicant further understands and agrees that the Zoning Board of Appeals may take action to rescind any variance granted if the conditions or situation presented herein are materially changed.

Sworn to before me this:

8<sup>TH</sup> day of AUGUST 20 05

*Daniel S. Lucia*  
DANIEL S. LUCIA

Notary Public, State of New York  
Qualified in Orange County

My commission expires 2/28/2007

Signature and Stamp of Notary

*Frank Antonelli Sr.*  
Owner's Signature (Notarized)

FRANK ANTONELLI, SR.

Owner's Name (Please Print)

*Jeff Albanese*  
Applicant's Signature (If not Owner)

JEFF ALBANESE

Real Estate Project Manager

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COMPLETE THIS PAGE ☐

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STATE OF Florida )  
 ) SS.:  
COUNTY OF Flagler )

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Sworn to before me this:

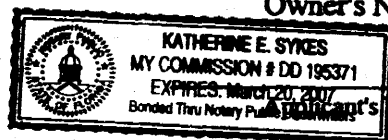
9th day of August 2005.

*John R. Antonelli*

Owner's Signature (Notarized)  
JOHN ANTONELLI

Owner's Name (Please Print)

*Katherine E. Sykes*  
Signature and Stamp of Notary



Signature (If not Owner)

**PLEASE NOTE:**

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COMPLETE THIS PAGE ☐

**APPLICANT/OWNER PROXY STATEMENT**  
**(for professional representation)**

for submittal to the:  
**TOWN OF NEW WINDSOR ZONING BOARD OF APPEALS**

John Antonelli, deposes and says that he resides  
(OWNER)  
at 4 Cedar Court, Palm Coast in the County of Flagler  
(OWNER'S ADDRESS)  
and State of Florida and that he is the owner of property tax map  
(Sec. 12 Block 1 Lot 49)  
designation number (Sec.        Block        Lot       ) which is the premises described in  
the foregoing application and that he authorizes:

Quick Chek Food Stores, Inc.

(Applicant Name & Address, if different from owner)  
Bohler Engineering, P.C., 776 Mountain Boulevard, Watchung, NJ 07069  
Gibbons, Del Deo, Dolan, Griffinger & Vecchione, One Pennsylvania Plaza, 37th Floor, NY,  
Atlantic Traffic & Design Engineers, 786 Mountain Boulevard, Watchung, NJ 07060 NY 101

(Name & Address of Professional Representative of Owner and/or Applicant)

to make the foregoing application as described therein.

Date: 8-9-2005

Sworn to before me this:  
9th day of August 2005

\*\*  
John P. Antonelli  
Owner's Signature (MUST BE NOTARIZED)  
JOHN ANTONELLI

Applicant's Signature (If different than owner)

Katherine E. Sykes  
Signature and Stamp of Notary



Representative's Signature

**THIS FORM IS TO BE COMPLETED ONLY IF SOMEONE OTHER THAN THE PROPERTY OWNER WILL BE APPEARING AS REPRESENTATION OF THE OWNER AT THE ZBA MEETINGS.**

**\*\* PLEASE NOTE:  
ONLY OWNER'S SIGNATURE MUST BE NOTARIZED.**

COMPLETE THIS PAGE ☐

**APPLICANT/OWNER PROXY STATEMENT**  
**(for professional representation)**

for submittal to the:  
**TOWN OF NEW WINDSOR ZONING BOARD OF APPEALS**

Frank Antonelli, Sr., deposes and says that he resides  
(OWNER)

at 360 Union Avenue, New Windsor in the County of Orange  
(OWNER'S ADDRESS)

and State of New York and that he is the owner of property tax map

(Sec. 12 Block 1 Lot 49)  
designation number (Sec.        Block        Lot       ) which is the premises described in

the foregoing application and that he authorizes:

Quick Chek Food Stores, Inc.

(Applicant Name & Address, if different from owner)

Bohler Engineering, P.C., 776 Mountain Boulevard, Watchung, NJ 07069  
Gibbons, Del Deo, Dolan, Griffinger & Vecchione, One Pennsylvania Plaza, 37th Floor, NY, N  
Atlantic Traffic & Design Engineers, 786 Mountain Boulevard, Watchung, NJ 07060 1011

(Name & Address of Professional Representative of Owner and/or Applicant)

to make the foregoing application as described therein.

Date: AUGUST 8, 2005

Sworn to before me this:

8TH day of AUGUST 2005




DANIEL S. LUCIA  
Notary Public, State of New York  
Qualified in Orange County  
My commission expires 2/28/2007

Signature and Stamp of Notary

\*\* 

Owner's Signature (MUST BE NOTARIZED)

FRANK ANTONELLI, SR.

  
Applicant's Signature (If different than owner)

JEFF ABANESE, Real Estate Project Manager

  
Representative's Signature

HOWARD D. GENESLAW, ESQ.

Applicant's Attorney

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COMPLETE THIS PAGE ☐